

Issue Paper Number 00-046



- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

STATE ASSESSMENT MANUAL

DELEGATING ASSESSMENT JURISDICTION OF STATE-ASSESSED LAND TO COUNTY ASSESSORS

I. Issue

Should the Board authorize publication of the *State Assessment Manual* (formerly AH 541); and, with respect to the Board's longstanding policy on delegating assessment jurisdiction of leased, state-assessed land to county assessors, should it include:

- (a) language that is neutral on the Board's historical policy; or
- (b) language that describes the Board's historical policy; or
- (c) language describing a new practice and procedure as proposed by an industry representative?

II. Staff Recommendation

Staff recommends that the Board authorize publication of the *Manual* without any language describing the Board's practice and procedure on delegation to county assessors of assessment jurisdiction over lands used but not owned by a state-assessee, and for which a local assessee pays the property taxes, subject to further study and analysis by staff for presentation to the Property Tax Committee no later than March, 2001. (Attachment 1).

III. Other Alternative(s) Considered

Alternative 1:

Authorize publication of the *Manual* with language that conveys the Board's historical practice and procedure on delegation to county assessors of assessment jurisdiction over lands used but not owned by a state-assessee, where a local assessee pays the property taxes (staff's recommended version with the changes identified in Attachment 2).

Alternative 2:

Authorize publication of the *Manual* with language that describes a new policy and procedure for delegating assessment jurisdiction to assessors, as proposed by industry representative, Mr. James M. Luckey, Director, Property Tax Services, Deloitte & Touche (staff's recommended version with the changes identified in Attachment 3). Specifically, adopt language that would result in the Board's delegation to county assessors of assessment jurisdiction over leased, state-assessed lands used but not owned by a state-assessee, and for which a local assessee pays the property taxes, provided that the land area is 500 square feet or less.

IV. Background

All property that is either *owned* or *used* by a state assessee is subject to state assessment. Under specified circumstances, however, the Board may delegate to a county assessor the duty to assess property that is *used* by a state assessee, provided that the property taxes are paid by a local assessee. As stated in section 19 of article XIII of the California Constitution:

The Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee.

Based on this authorization, the Board *may delegate* to a county assessor the duty to assess property leased by a state assessee, if a local assessee-owner pays the property taxes. In determining when to delegate, the Board's historical policy and procedure has been to assess all unimproved property (i.e., land) that is leased by a state assessee and to assess all improvements that are leased by a state assessee provided the improvements are entirely leased (i.e., 100%) by the state assessee. If, however, only a portion of an improvement is leased by the state assessee, and a local assessee pays the property taxes, the Board has delegated its jurisdiction over that portion of the property to the county assessor, for purposes of efficient property tax administration.

For example, if a state assessee leases land to erect a wireless communications tower, the leased land is assessed by the Board. If a state assessee leases an entire office building, the entire office building is assessed by the Board. If a state assessee leases a portion of an office building, however, and a local assessee is paying the property taxes, the Board delegates the duty to assess the leased portion of the office building to the county assessor. This practice is consistent with the constitutional discretion and, in staff's view, was intended to be administratively efficient.

The draft of the *Manual*, distributed to interested parties as part of the revision process, contained specific language describing the Board's historical policy and procedure. Prior to the interested parties meeting, staff revised this language for clarification purposes only, in response to comments received from the interested parties. Despite this clarification and although the policy and procedure has been longstanding and non-controversial, Mr. James M. Luckey, Director, Property Tax Services, Deloitte & Touche raised an objection at the interested parties meeting on August 22, 2000.

Following the meeting, rapidly changing new developments in the wireless telecommunications industry directly related to the issue of assessment jurisdiction were brought to staff's attention. Consequently, staff has revised the *Manual*, which would delete any discussion of the Board's longstanding policy and procedure. This would represent a neutral position for the future, allowing staff time to further study and analyze the issue, and give interested parties an opportunity for input. New developments in telecommunications that warrant such investigation and analysis, as described in staff's recommendation, are:

- Some wireless communications providers have either sold their communications towers, along with an assignment of the rights they hold in the tower site, or assigned the leasing rights to the towers to a new type of business entity called a tower aggregator.
- Typically, the communications providers lease back a portion of the tower, and perhaps a specific portion of the tower site, for their own use; which allows for greater efficiency in the industry.

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- Tower aggregators are in the business of acquiring and leasing tower sites to multiple communications providers, which eliminates site redundancy, and the communications providers are freed to concentrate on their core business.
- The questions to be studied by the staff are: how should assessment jurisdiction be determined; and to whom should the property be assessed; the effect on workload of Board staff, assessors' staff, and assessees.

Also following the interested parties meeting, Mr. Luckey proposed a change in Board policy, described in Alternative 2 of this issue paper. Alternative 2 would adopt procedural language resulting in the Board's delegation to county assessors of assessment jurisdiction over leased, state-assessed lands for which the local assessee pays the taxes, provided that the land area is 500 square feet or less.

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends that the Board authorize publication of the *Manual* without including language describing the Board's historical policy and practice on the delegating assessment jurisdiction of leased, state-assessed land to county assessors (Attachment 1). Staff's recommended version of the *Manual* would not include specific language on the Board's historical policy and practice, thereby leaving the specific details unaddressed. This would allow time to research and analyze new developments, and give interested parties an opportunity to provide input. Staff would present their findings to the Property Tax Committee no later than March, 2001.

B. Pros of the Staff Recommendation

- Provides a neutral statement of the law regarding the constitutional authorization for the Board to delegate assessment jurisdiction of state-assessee leased property under article XIII, section 19, without stating past practice or specific details regarding leased lands.
- Provides the staff opportunity to investigate and study rapidly changing new developments in the telecommunications industry and to present findings and recommendations to the Property Tax Committee no later than March, 2001.
- Acknowledges the emerging issue of assessment jurisdiction over land subleased from tower aggregators and allocates staff resources to address the issue.
- Allows staff to notice all interested parties and affected stakeholders (local assessors) of the proposal to establish a new policy to delegate assessment jurisdiction over certain lands. This would provide interested parties time to bring forward information on this emerging issue.
- Removes the need to revise the manual upon resolution of the policy regarding the delegation of assessment jurisdiction and reduces future expenditure of staff resources.

C. Cons of the Staff Recommendation

- The manual would not contain specific language regarding staff's historical policy and practice regarding assessment delegation.
- Staff has already allocated resources to revise and update all assessors' handbooks, including this manual, on an annual basis, in order to update new developments or to further address specific issues, such as the one here.

D. Statutory or Regulatory Change

None

E. Administrative Impact

Board staff would have to allocate resources to accommodate the workload. It is anticipated that this workload would be absorbable within the current staff level.

F. Fiscal Impact

1. Cost Impact

No additional cost.

2. Revenue Impact

None

G. Taxpayer/Customer Impact

Staff's recommendation would result in no change in assessment duty, state assessee reporting requirements, or transfer of tax risk from state assessee to local assessee without formal notice to taxpayers/customers that would be affected. Staff's recommendation would allow affected local assessees to review the proposal and participate in the process.

H. Critical Time Frames

None

VI. Alternative 1

A. Description of Alternative 1

Authorize publication of the *Manual* with a discussion of the Board's historical policy and practice to delegate assessment jurisdiction to county assessors when the property used but not owned by a state assessee (where taxes are paid by a local assessee) consists of less than 100% of leased buildings or improvements, but not to delegate when the property consists of land (staff's recommended version with the changes identified in Attachment 2). The alternative language illustrates this policy and practice by stating the following example: "For example, if a local assessee leased a portion of land to a state assessee, and the state assessee constructed a cellular communications tower on the land, both the land and the tower would be state assessed."

B. Pros of Alternative 1

- Accurately cites the Board's authority for assessment delegation under section 19 for property that is used but not owned by a state assessee on which the taxes are paid by a local assessee.
- Acknowledges the Board's historical practice and policy regarding assessment jurisdiction over lands leased by state assessees, including those used for cell tower purposes.

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- Provides accurate information on historical policy and practice regarding the delegation of assessment jurisdiction and assists any party interested in understanding how this policy is carried out.
- Immediately resolves this issue and establishes a specific policy regarding assessment delegation, which would be conveyed in the new manual. Additionally, staff and interested parties would not have to allocate additional resources to further address this issue.

C. Cons of Alternative 1

- Deprives other interested parties (e.g., county assessors, other state assessees, and local assessees) of an opportunity to review the emerging issue of tower aggregators.

D. Statutory or Regulatory Change

None

E. Administrative Impact

There would be no administrative impact. Staff would continue to assess land that is used but not owned by a state assessee.

F. Fiscal Impact

1. Cost Impact

None

2. Revenue Impact

None

G. Taxpayer/Customer Impact

Staff's recommendation would result in no change in assessment duty, state assessee reporting requirements, or transfer of tax risk from state assessee to local assessee.

H. Critical Time Frames

None

Alternative 2

A. Description of Alternative 2

Authorize publication of the *Manual* with language that represents a change from existing Board policy and practice in regard to the delegation of assessment jurisdiction over state assessee-leased lands. Specifically, adopt language proposed by Mr. James M. Luckey, Director, Property Tax Services, Deloitte & Touche (staff's recommended version with the changes identified in Attachment 3). That language would require the Board's delegation of assessment jurisdiction to county assessors for state assessee-leased lands (where local assessee pays the property taxes) that are 500 square feet or less. Reasons given for the change and departure from the Board's longstanding practice are:

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- The current policy is an arbitrary exercise of constitutional right to delegate assessment of certain property. Currently, staff determines on a case by case basis which property to delegate without a clearly defined standard.
- The current policy imposes onerous and costly filing requirements. Currently, state assessees are required to file a Statement of Land Changes (SLC) for each newly leased or acquired cell site. There is a high cost to comply in terms of internal hours and fees.
- The current policy may result in the double assessment and taxation of the leased portion of land. If a county assessor does not remove the value of the leased portion from the local roll, then the leased portion of land would be assessed by both the Board and the county assessor.
- The cost to comply with the reporting requirements under the current policy greatly exceeds the additional revenues. The estimated total cost to comply is \$4,500-\$5,000 for each site. The estimated annual tax revenue for a typical site is \$880-\$1,320. Thus, the cost to comply exceeds the annual revenue by more than 300%.

B. Pros of Alternative 2

- Would immediately resolve the issue regarding delegation, which would be conveyed in the manual.
- Staff and interested parties would not have to allocate additional resources to further address this issue.
- The proposal may reduce the state assessees' administrative cost of reporting certain land and the information necessary to complete the SLC.
- The Board's delegation of jurisdiction of lands, 500 square feet or less, may reduce tax administration costs for county assessors, since they already assess the fee interest in the entire parcel.

C. Cons of Alternative 2

- The Board may need to continue to require the reporting of all land used by a state assessee to determine if it can be delegated. Thus, the delegation of lands, 500 square feet or less, that is used but not owned by a state assessee on which taxes are paid by a local assessee may not reduce an assessee's administrative costs.
- Would shift the tax risk from state assessees to local assessees without notice. Local assessees that would be affected have not participated in this manual writing process and have not had an opportunity to analyze the proposal and provide comments and suggestions.
- Other interested parties, including some assessors, would not be given an opportunity to review the alternative text and provide comments and suggestions.
- Board staff and county assessors would have to allocate additional resources to implement the change in policy. Board staff would have to rewrite the *Instructions for Reporting State-Assessed Property* to reflect any change in reporting requirements. Board staff would be required to coordinate with state and local assessees to analyze leases and ownership status to determine if the parcels can be delegated.
- Results in significant variations in assessment. Jurisdiction to assess land less than 500 square feet used by a state assessee would be divided between the Board of Equalization and 58 county assessors.

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Land that is delegated would be subject to the limitations of article XIII A and land that cannot be delegated would not be subject to article XIII A. Additionally, some of the delegated land would be subject to assessment using a statutorily prescribed capitalization rate that is significantly lower than that used by the Board (land subject to California Land Conservation Act contract). The proposal would result in disparate treatment of similar property.

- The proposal does not address sites that cannot be delegated such as possessory interests and sites leased from other state assessesees.
- May increase the likelihood that sites, 500 square feet or less, used by state assessesees will be double assessed or escape assessment. The de minimis test would complicate the assessment jurisdiction determination process, which may result in coordination problems and/or disagreements over responsibility.
- May not significantly reduce state assessee's administrative costs in that the information required to complete the SLC is known to the state assessee in the ordinary course of business and is collected for other purposes. For example: a detailed site map showing improvements and their precise locations is necessary for the permit process that is involved in developing a site and erecting a telecommunications tower. For any new construction, section 72 of the Revenue and Taxation Code requires assessees to file an approved set of plans with the city, county, or city and county. Additionally, the Federal Aviation Administration and the Federal Communications Commission require precise location and structural information before a tower can be erected. Also, a description of the site being leased is typically provided in the document executing a lease.

D. Statutory or Regulatory Change

None

E. Administrative Impact

- This alternative would result in a onetime increase in county assessors' workloads. The delegation of certain sites would require the county assessor to remap the delegated sites and add the necessary value increments.
- The proposed alternative would result in a onetime increase in Board staff's workload. Board staff would need to analyze the lease for each site to determine if it can be constitutionally delegated. Board staff would also have to determine the size of each site to determine if it meets the de minimis test. If a site can be delegated, Board staff would then notify the affected county assessor and convey any leases or contracts available. With existing staff, it is unlikely that the proposal could be timely implemented for the 2001 lien date.

F. Fiscal Impact**1. Cost Impact**

For both the Board and county assessors it is anticipated that the proposal would cause a onetime increase in workloads that could be absorbed within the current staff level.

2. Revenue Impact

The state assessee roll value would likely be reduced. In general, the revenue would be lost because property delegated to county assessors would be subject to assessment pursuant to article XIII A and the local assessment would be based on the lesser of the current fair market value or the factored base year value. Thus, many properties would be assessed according to a base year value that does not take into consideration the communications tower use.

For land that is subject to a California Land Conservation Act (CLCA) contract, local assessment would result in a significant tax increase. A statutorily prescribed capitalization rate is used by county assessors to value land subject to a CLCA contract. The statutorily prescribed rate is significantly lower than the rate used by Board staff in valuing state assessee property. Thus, the delegation of land subject to a CLCA contract would result in a significant increase in the taxable property value.

See the formal Revenue Estimate for further details.

G. Taxpayer/Customer Impact

Local assessees that own land used by a state assessee (less than 500 square feet) would assume the tax risk. The affect on most local assessee owned land would be minimal because they would be subject to the value limitations of article XIII A. As most of these sites are leased for less than 35 years, there would be no change in ownership. Thus, the local assessment would revert to the lesser of current fair market value or the factored base year value. Any subsequent change in ownership of the land would cause the county assessor to establish a new base year value to include the value added due to the communications tower use.

Other local assessees (property subject to California Land Conservation Act contracts) would likely see larger and more immediate property tax increases. Because the communications tower use is a compatible use, the income derived from the land lease would be capitalized at a much lower statutorily prescribed rate than if it were state assessed. The result is a higher taxable value.

H. Critical Time Frames

None

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STATE ASSESSMENT MANUAL

ALTERNATIVE 1: INCLUDES LANGUAGE ON STAFF'S HISTORICAL PRACTICE**APPENDIX B: PROPERTY TRANSACTIONS AND
JURISDICTIONAL CHANGES**

Various types of property transactions involving state and local assessesees may produce changes in assessment jurisdiction—that is, from state-assessed to locally assessed, or vice versa. This appendix discusses jurisdiction in light of several typical property transactions.

GENERAL CONCEPTS

Several general concepts relating to jurisdiction constitute the background for resolving jurisdictional issues in specific situations. Many of these concepts were also discussed in Chapter 1.

(1) The Board's assessment jurisdiction is prescribed in section 19 of article XIII of the California Constitution:

The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity.

Constitutional mandate thus establishes two jurisdictional criteria: (1) a criterion based on the type of property and (2) a criterion based on the type of company.

The criterion based on type of property includes all property necessary for the operation of intercounty pipeline, flumes, canals, ditches and aqueducts. Excluded from property meeting this criterion, however, are interests in land, ancillary delivery facilities, and personal property not directly related to the proper mechanical functioning of a pipeline, flume, canal, ditch, or aqueduct.

The criteria based on type of company includes all property owned or used by regulated railway, telegraph or telephone companies; rail car companies and companies that sell or transmit gas or electricity.

All taxable property that is not subject to state assessment by the Board is subject to local assessment by county assessors.

(2) Property subject to state assessment includes property that is *owned or used* by the state assessee. Thus, all property leased by a state assessee is subject to state assessment regardless of the lease term.

(3) While, there is no constitutional provision allowing the Board to delegate the assessment of property *owned* by a state assessee to local assessors, the Board may delegate the assessment of certain property *used* by state assessees. As stated in section 19 of article XIII:

ALTERNATIVE 1: INCLUDES LANGUAGE ON STAFF'S HISTORICAL PRACTICE

1 The Board may delegate to a local assessor the duty to assess a property *used but*
 2 *not owned* by a state assessee on which the taxes are to be paid by a local
 3 assessee. [Emphasis added.]

4 Thus, the Board may delegate the duty to assess property leased by a state assessee to the
 5 local assessor if a local assessee owns the property and the lease agreement provides that the
 6 local assessee-owner pays the property taxes.⁴⁶

7 The Board's current practice is to delegate assessment duty in cases where the property is
 8 less than completely (i.e., 100 percent) leased by a state assessee and taxes are paid by a local
 9 assessee. If the Board delegates assessment duty to a local assessor, the property becomes
 10 subject to the assessment provisions of article XIII A.

11 There is a qualification that involves leasehold improvements, however. When delegating
 12 assessment duty, the Board retains assessment jurisdiction over fixtures installed by the state
 13 assessee. The assessment of structural items is typically delegated to the local assessor
 14 together with the land and all other improvements.

15 (4) Since locally assessed property generally is assessed under the provisions of article XIII A of
 16 the California Constitution while state-assessed property is not, when the assessment
 17 jurisdiction of a property changes, the method of assessment also changes. For example, if a
 18 state-assessed property becomes locally assessed, it should be assessed as all other locally
 19 assessed property, and vice versa.

20 (5) Generally, property transactions between a state assessee and another state assessee or
 21 between a local assessee and another local assessee have no effect on assessment
 22 jurisdiction. For example, if one state assessee sells property to another state assessee,
 23 generally no assessment action is required by the local assessor.

24 SOME TYPICAL SITUATIONS

25 SALE OR LEASE OF PROPERTY FROM LOCAL ASSESSEE TO STATE ASSESSEE

26 Property purchased or leased by a state assessee from a local assessee is subject to Board
 27 assessment jurisdiction as of the date of transfer. Although the Board may, in certain
 28 circumstances, delegate assessment jurisdiction of a leasehold improvement to the county
 29 assessor, the assessor should notify the Board of the transfer and remove the property from the
 30 local assessment roll on the following lien date. During the period the property remains on the
 31 local roll, it is assessed in accordance with article XIII A. If the property is inadvertently double
 32 assessed, taxes on all or any portion of an assessment of state-assessed property may be
 33 cancelled, pursuant to section 5011.

⁴⁶ Assessment duty cannot be delegated by the Board to a local assessor, if property taxes are simply passed through by the property owner to the state assessee. In such cases, however, it may be possible to amend the lease agreement in a manner that allows the delegation of assessment duty to the local assessor.

ALTERNATIVE 1: INCLUDES LANGUAGE ON STAFF'S HISTORICAL PRACTICE

1 The Board will assess the property on the following lien date, in accordance with subdivision (b)
2 of section 722.5:

3 [R]eal property that becomes subject to board assessment on or after January 1,
4 and on or before the following January 1, shall not be state assessed until the
5 assessment year commencing on the latter January 1.

6

7 Even though the property will not be assessed by the Board until the following January 1, it
8 comes under state jurisdiction on the date of the change in ownership. After the property
9 becomes subject to state assessment, the county assessor has no authority to make any new
10 assessment regarding the property. Thus neither the change in ownership itself nor any
11 subsequent new construction (i.e., new construction that occurs between the date of transfer and
12 the following lien date) is subject to supplemental assessment by the county assessor. Section
13 75.14 states in part "A supplemental assessment pursuant to this chapter shall not be made for
14 any property not subject to the assessment limitations of article XIII A of the California
15 Constitution." Since a new base year value under article XIII A is not established on property
16 transferred to a state assessee, no supplemental assessment can occur.

17 A question may also arise regarding assessment appeals jurisdiction. If an assessee files an
18 appeal during the period after a locally assessed property becomes subject to state assessment but
19 before the property is assessed on the board roll, the issue on appeal would relate to the prior
20 assessment. Since that assessment was made on the local roll at a time when the property was
21 subject to local assessment, the local appeals board would have jurisdiction. Contrariwise, if the
22 issue on appeal relates to an assessment made on the board roll after the property became subject
23 to state assessment, the Board of Equalization would have appeals jurisdiction.

24 SALE OF PROPERTY FROM STATE ASSESSEE TO LOCAL ASSESSEE

25 Property purchased by a local assessee from a state assessee is subject to local assessment
26 jurisdiction, and therefore subject to the provisions of article XIII A, as of the date of change in
27 ownership. The property is subject to supplemental assessment by the county assessor.
28 Subdivision (a) of section 722.5 contains specific reference to supplemental assessment
29 provisions (sections 75 and following):

30 Real property assessed by the board ... which thereafter becomes subject to local
31 assessment, shall not be assessed locally during the remainder of the assessment
32 year, except as provided in Chapter 3.5 (commencing with Section 75) of Part 0.5
33 of Division 1.

34 The amount of the supplemental assessment is the difference between the property's new base
35 year value as established by the county assessor and the taxable value on the current board roll.
36 The taxable value on the current board roll is the portion of the state-assessed value allocable to
37 the subject property. As stated in section 75.9:

ALTERNATIVE 1: INCLUDES LANGUAGE ON STAFF'S HISTORICAL PRACTICE

1 In the case of real property which, prior to the date of the change in ownership or
2 completion of new construction, was assessed by the board pursuant to Section 19
3 of Article XIII of the California Constitution, "taxable value" means that portion
4 of the state-assessed value determined by the board to be properly allocable to the
5 property which is subject to the supplemental assessment.

6 Contact between the county and the Board's Valuation Division is necessary to determine the
7 allocated value.

SALE AND LEASEBACK BY STATE ASSESSEE

9 In a typical sale-leaseback transaction, the sale and leaseback are essentially simultaneous. In a
10 sale-leaseback involving a state assessee, the state assessee owner-seller, immediately becomes
11 the lessee. There is generally no change in assessment jurisdiction, since all property owned or
12 *used* (i.e., leased) by a state assessee is subject to state assessment. The property remains state
13 assessed even though the state assessee is merely leasing it, unless the agreement specifies that
14 not all of the property is leased to the state assessee, and the purchaser/lessor is to pay the
15 property taxes. Article XIII section 19 states that "the Board may delegate to a local assessor the
16 duty to assess a property used but not owned by a state assessee on which the taxes are to be paid
17 by the local assessee."

**PROPERTY OWNED BY LOCAL ASSESSEE AND LEASED TO STATE ASSESSEE WITH
SALE OF LESSOR'S INTEREST**

18 Generally, a change in ownership of the underlying fee interest (i.e., the lessor's interest) in a
19 local assessee-owned but state-assessed property (i.e., the property is leased to a state assessee)
20 does not change the assessment jurisdiction. Since the property remains leased to a state assessee
21 it remains under Board jurisdiction.

22 No action should be taken by the county assessor. This is true even if the remaining term of the
23 lease is less than 35 years; in which case, if the property were under local assessment
24 jurisdiction, there would be a change in ownership. However, because the property remains
25 under state assessment jurisdiction, it is not subject to the change in ownership provisions of
26 article XIII A.

27 Since the Board may delegate to the assessor the duty to assess property that is "used" but not
28 "owned" by a state assessee and on which the taxes are paid by the local assessee, such
29 delegation generally occurs for buildings and leasehold improvements that are "partially" leased
30 and/or occupied by state assessees. The Board may not however, delegate the assessment of any
31 portion of a state assessee's improvements, including leasehold improvements, if they are
32 "owned" by the state assessee.
33
34
35

ALTERNATIVE 1: INCLUDES LANGUAGE ON STAFF'S HISTORICAL PRACTICE**PROPERTY OWNED BY A LOCAL ASSESSEE AND LEASED TO STATE ASSESSEE WITH LEASE TERMINATION**

In this scenario, assessment jurisdiction changes from state to local as of the date of lease termination because after that point in time a state assessee neither owns nor uses the property. As locally assessed, the property becomes subject to article XIII A.

If the lease was for an original term of 35 years or more, the termination of the lease is a change in ownership, and the county assessor should reassess the property and establish a new base year value. The assessor should also issue a supplemental assessment. (Since the property is owned by a local assessee, the property was previously assessed on the local roll and hence a base year value for the property should exist. The base year value of the property should be revised, if necessary, to reflect any incremental base year value(s) resulting from new construction while the property was subject to state assessment. If the improvement was constructed and immediately occupied by the state assessee—for example, under a ground lease arrangement—a base year value for the improvement will not exist. The assessor should determine what the base year value of the improvements would have been as of the date of their completion.

If the lease was for an original term of less than 35 years, then there is no change in ownership and hence no reassessment or supplemental assessment. For the lien date following lease termination, the county assessor should enroll a taxable value consistent with the provisions of article XIII A. Normally, this would be the lesser of the property's factored base year value or current market value, as prescribed in subdivision (a) of section 51.

FOREIGN IMPROVEMENTS

Improvements owned by one party and located on land owned by another party are called "foreign improvements." For example, leasehold improvements owned by a lessee/tenant are a type of foreign improvement. Foreign improvements owned by a local assessee on state-assessed land are subject to local assessment if the improvements are not used by (i.e., leased by) the state assessee. The county assessor should assess such improvements as he or she assesses other locally assessed property. In the case of foreign improvements owned by a state assessee on land owned by a local assessee, both the improvements and the land are state assessed—the improvements because they are owned by the state assessee and the land because it is used by the state assessee.

When a state assessee leases less than 100% of a building or other structure property owned by a local assessee, and the taxes are paid by the local assessee, the Board ~~may~~ delegates its authority to assess the building or structure to the county assessor. As discussed above, however, the assessment of leasehold improvements owned by a state assessee located in or on such a building or structure may not be delegated. Under article XIII, section 19, the Board retains its authority to assess leasehold improvements owned by a state assessee, and such improvements should not be assessed by the county assessor.

If a local assessee leases a portion of land to a state assessee, and the state assessee then constructs an improvement on the land, the Board retains assessment jurisdiction over both the

ALTERNATIVE 1: INCLUDES LANGUAGE ON STAFF'S HISTORICAL PRACTICE

1 portion of land and the improvement-the portion of land because it is used by a state assessee
2 and the improvement because it is owned by a state assessee. For example, if a local assessee
3 leased a portion of land to a state assessee, and the state assessee constructed a cellular
4 communications tower on the land, both the land and the tower would be state assessed.

LESSOR'S EXEMPTION CLAIMS

5
6 If a lessor's exemption is sought for state-assessed property, the property owner must file a
7 lessor's exemption claim form with the local assessor where the property is located. The Board
8 has no authority to grant the exemption; this power rests with county assessors. The assessor
9 receiving an exemption claim involving state-assessed property should act on the claim in the
10 same manner as a claim for locally assessed property. After the claim is processed, the assessor
11 should forward a copy of the claim form with advice of the assessor's determination to the
12 Board's Valuation Division.

DISCOVERY OF STATE ASSESSED PROPERTY

13
14 The Board's discovery of state-assessed property is largely through taxpayer reporting. A state
15 assessee is required to file an annual property statement detailing, among other things, all
16 property owned or used, except licensed motor vehicles, as of the lien date.

17 County assessors' offices may discover property under state jurisdiction as part of their normal
18 assessment duties (e.g., the processing of changes in ownership, memoranda of leases, and
19 building permits). When an assessor discovers that a state assessee has purchased or leased
20 locally assessed property, the assessor should notify the Board's Valuation Division. If the Board
21 determines that it has assessment jurisdiction, the Valuation Division will notify the local
22 assessor via a "List of Land Changes". The Board will also send new land identification maps to
23 the assessor identifying the property with a Board ("SBE") parcel number.

24 In order to determine the assessment jurisdiction for newly constructed improvements, assessors
25 should send copies of all building permits relating to construction by state assesseees or their
26 contractors to the Valuation Division. If Valuation Division staff determines that the newly
27 constructed improvements authorized by a particular permit are not subject to state assessment,
28 the assessor will be notified by staff to locally assess the property.

STATE BOARD OF EQUALIZATION MAPS AND PARCEL NUMBERS

29
30 The Board sends land identification maps ("Board maps") to local assessors when there is a
31 change in assessment jurisdiction. The maps describe the property involved with respect to
32 officially established survey lines, corners, or other reference points shown on maps of record.
33 The Board's parcel numbers ("SBE parcel numbers") are quite different from the parcel numbers
34 ("APNs") assigned by local assessors. The numbers derive from completely distinct mapping
35 systems.

ALTERNATIVE 1: INCLUDES LANGUAGE ON STAFF'S HISTORICAL PRACTICE

1 Each parcel of land owned or used by a state assessee is assigned a unique parcel number. Each
2 SBE parcel number has four groups of characters—for example, 872-27-16D-1A.

3 1. The first group of characters is a unique number assigned to each state assessee. In this
4 example, "872" represents Southern Pacific Railroad Company. Assessee are
5 numerically grouped by industry as follows:

Industry	SBE Number		
Gas, Electric, Water and Gas Transmission	100	—	199
Local Exchange Telephone Companies	200	—	399
Pipeline Companies	400	—	499
Railcar Maintenance Facilities	500	—	699
Railroad Companies	800	—	899
Long Distance Telephone Companies	2000	—	2499
Wireless Telephone Companies	2500	—	2599
Radio Common Carrier Companies	3000	—	3999
Long Distance Telephone Companies	7500	—	7999
Wireless Telephone Companies	D001	—	D999
Long Distance Telephone Companies	P001	—	P999

6
7 2. The second group of characters is a unique code for each county. In the example, "27"
8 represents Monterey County. County numbers are as follows:

County Number	County Name	County Number	County Name
1	Alameda	30	Orange
2	Alpine	31	Placer
3	Amador	32	Plumas
4	Butte	33	Riverside
5	Calaveras	34	Sacramento
6	Colusa	35	San Benito
7	Contra Costa	36	San Bernardino
8	Del Norte	37	San Diego
9	El Dorado	38	San Francisco
10	Fresno	39	San Joaquin
11	Glenn	40	San Luis Obispo
12	Humboldt	41	San Mateo
13	Imperial	42	Santa Barbara
14	Inyo	43	Santa Clara
15	Kern	44	Santa Cruz
16	Kings	45	Shasta
17	Lake	46	Sierra
18	Lassen	47	Siskiyou
19	Los Angeles	48	Solano
20	Madera	49	Sonoma
21	Marin	50	Stanislaus
22	Mariposa	51	Sutter
23	Mendocino	52	Tehama
24	Merced	53	Trinity

ALTERNATIVE 1: INCLUDES LANGUAGE ON STAFF'S HISTORICAL PRACTICE

1

25	Modoc	54	Tulare
26	Mono	55	Tuolumne
27	Monterey	56	Ventura
28	Napa	57	Yolo
29	Nevada	58	Yuba

2

3

3. The third group of characters identifies the map and its position in a series. This group consists of from 1 to 3 characters. In the example, "16" indicates that the map is the 16th in a series of maps for that county. Each map change from the original map filed is noted by an alphabetical suffix, "A", "B", "C", etc. In the example, "16A" indicates that this map is a supplementary map that has been filed. With each map revision the specific parcels will be renumbered starting from 1.

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4. The fourth part of a SBE parcel number identifies a specific parcel. This group consists of from 1 to 3 characters. A change to a specific parcel is noted by an alphabetical suffix. In the example, "1A" indicates that it has been revised once.

10

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12

State assessed property that transfers from one state assessee to another does not receive a new SBE parcel number. Instead, SBE parcel numbers are listed following the new owner's company number. For example, the state assessee number for Union Pacific Railroad Company that is "843". If the example property were acquired by Union Pacific Railroad Company, the property would simply be listed under 843, and the new SBE parcel number would be 843-872-27-16D-1A.

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18

ALTERNATIVE 2: INCLUDES LANGUAGE FOR MR. LUCKEY'S PROPOSAL**APPENDIX B: PROPERTY TRANSACTIONS AND
JURISDICTIONAL CHANGES**

Various types of property transactions involving state and local assessesees may produce changes in assessment jurisdiction—that is, from state-assessed to locally assessed, or vice versa. This appendix discusses jurisdiction in light of several typical property transactions.

GENERAL CONCEPTS

Several general concepts relating to jurisdiction constitute the background for resolving jurisdictional issues in specific situations. Many of these concepts were also discussed in Chapter 1.

(1) The Board's assessment jurisdiction is prescribed in section 19 of article XIII of the California Constitution:

The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity.

Constitutional mandate thus establishes two jurisdictional criteria: (1) a criterion based on the type of property and (2) a criterion based on the type of company.

The criterion based on type of property includes all property necessary for the operation of intercounty pipeline, flumes, canals, ditches and aqueducts. Excluded from property meeting this criterion, however, are interests in land, ancillary delivery facilities, and personal property not directly related to the proper mechanical functioning of a pipeline, flume, canal, ditch, or aqueduct.

The criteria based on type of company includes all property owned or used by regulated railway, telegraph or telephone companies; rail car companies and companies that sell or transmit gas or electricity.

All taxable property that is not subject to state assessment by the Board is subject to local assessment by county assessors.

(2) Property subject to state assessment includes property that is *owned or used* by the state assessee. Thus, all property leased by a state assessee is subject to state assessment regardless of the lease term.

(3) While, there is no constitutional provision allowing the Board to delegate the assessment of property *owned* by a state assessee to local assessors, the Board may delegate the assessment of certain property *used* by state assessees. As stated in section 19 of article XIII:

ALTERNATIVE 2: INCLUDES LANGUAGE FOR MR. LUCKEY'S PROPOSAL

1 The Board may delegate to a local assessor the duty to assess a property *used but*
2 *not owned* by a state assessee on which the taxes are to be paid by a local
3 assessee. [Emphasis added.]

4 Thus, the Board may delegate the duty to assess property leased by a state assessee to the
5 local assessor if a local assessee owns the property and the lease agreement provides that the
6 local assessee-owner pays the property taxes.⁴⁶

7 The Board's current practice is to delegate assessment duty in cases where the property is
8 less than completely (i.e., 100 percent) leased by a state assessee and taxes are paid by a local
9 assessee. If the Board delegates assessment duty to a local assessor, the property becomes
10 subject to the assessment provisions of article XIII A.

11 There is a qualification that involves leasehold improvements, however. When delegating
12 assessment duty, the Board retains assessment jurisdiction over fixtures installed by the state
13 assessee. The assessment of structural items is typically delegated to the local assessor
14 together with the land and all other improvements.

15 (4) Since locally assessed property generally is assessed under the provisions of article XIII A of
16 the California Constitution while state-assessed property is not, when the assessment
17 jurisdiction of a property changes, the method of assessment also changes. For example, if a
18 state-assessed property becomes locally assessed, it should be assessed as all other locally
19 assessed property, and vice versa.

20 (5) Generally, property transactions between a state assessee and another state assessee or
21 between a local assessee and another local assessee have no effect on assessment
22 jurisdiction. For example, if one state assessee sells property to another state assessee,
23 generally no assessment action is required by the local assessor.

24 SOME TYPICAL SITUATIONS

25 SALE OR LEASE OF PROPERTY FROM LOCAL ASSESSEE TO STATE ASSESSEE

26 Property purchased or leased by a state assessee from a local assessee is subject to Board
27 assessment jurisdiction as of the date of transfer. Although the Board may, in certain
28 circumstances, delegate assessment jurisdiction of a leasehold improvement to the county
29 assessor, the assessor should notify the Board of the transfer and remove the property from the
30 local assessment roll on the following lien date. During the period the property remains on the
31 local roll, it is assessed in accordance with article XIII A. If the property is inadvertently double
32 assessed, taxes on all or any portion of an assessment of state-assessed property may be
33 cancelled, pursuant to section 5011.

⁴⁶ Assessment duty cannot be delegated by the Board to a local assessor, if property taxes are simply passed through by the property owner to the state assessee. In such cases, however, it may be possible to amend the lease agreement in a manner that allows the delegation of assessment duty to the local assessor.

ALTERNATIVE 2: INCLUDES LANGUAGE FOR MR. LUCKEY'S PROPOSAL

1 The Board will assess the property on the following lien date, in accordance with subdivision (b)
2 of section 722.5:

3 [R]eal property that becomes subject to board assessment on or after January 1,
4 and on or before the following January 1, shall not be state assessed until the
5 assessment year commencing on the latter January 1.

6

7 Even though the property will not be assessed by the Board until the following January 1, it
8 comes under state jurisdiction on the date of the change in ownership. After the property
9 becomes subject to state assessment, the county assessor has no authority to make any new
10 assessment regarding the property. Thus neither the change in ownership itself nor any
11 subsequent new construction (i.e., new construction that occurs between the date of transfer and
12 the following lien date) is subject to supplemental assessment by the county assessor. Section
13 75.14 states in part "A supplemental assessment pursuant to this chapter shall not be made for
14 any property not subject to the assessment limitations of article XIII A of the California
15 Constitution." Since a new base year value under article XIII A is not established on property
16 transferred to a state assessee, no supplemental assessment can occur.

17 A question may also arise regarding assessment appeals jurisdiction. If an assessee files an
18 appeal during the period after a locally assessed property becomes subject to state assessment but
19 before the property is assessed on the board roll, the issue on appeal would relate to the prior
20 assessment. Since that assessment was made on the local roll at a time when the property was
21 subject to local assessment, the local appeals board would have jurisdiction. Contrariwise, if the
22 issue on appeal relates to an assessment made on the board roll after the property became subject
23 to state assessment, the Board of Equalization would have appeals jurisdiction.

24 SALE OF PROPERTY FROM STATE ASSESSEE TO LOCAL ASSESSEE

25 Property purchased by a local assessee from a state assessee is subject to local assessment
26 jurisdiction, and therefore subject to the provisions of article XIII A, as of the date of change in
27 ownership. The property is subject to supplemental assessment by the county assessor.
28 Subdivision (a) of section 722.5 contains specific reference to supplemental assessment
29 provisions (sections 75 and following):

30 Real property assessed by the board ... which thereafter becomes subject to local
31 assessment, shall not be assessed locally during the remainder of the assessment
32 year, except as provided in Chapter 3.5 (commencing with Section 75) of Part 0.5
33 of Division 1.

34 The amount of the supplemental assessment is the difference between the property's new base
35 year value as established by the county assessor and the taxable value on the current board roll.
36 The taxable value on the current board roll is the portion of the state-assessed value allocable to
37 the subject property. As stated in section 75.9:

ALTERNATIVE 2: INCLUDES LANGUAGE FOR MR. LUCKEY'S PROPOSAL

1 In the case of real property which, prior to the date of the change in ownership or
2 completion of new construction, was assessed by the board pursuant to Section 19
3 of Article XIII of the California Constitution, "taxable value" means that portion
4 of the state-assessed value determined by the board to be properly allocable to the
5 property which is subject to the supplemental assessment.

6 Contact between the county and the Board's Valuation Division is necessary to determine the
7 allocated value.

SALE AND LEASEBACK BY STATE ASSESSEE

8
9 In a typical sale-leaseback transaction, the sale and leaseback are essentially simultaneous. In a
10 sale-leaseback involving a state assessee, the state assessee owner-seller, immediately becomes
11 the lessee. There is generally no change in assessment jurisdiction, since all property owned or
12 *used* (i.e., leased) by a state assessee is subject to state assessment. The property remains state
13 assessed even though the state assessee is merely leasing it, unless the agreement specifies that
14 not all of the property is leased to the state assessee, and the purchaser/lessor is to pay the
15 property taxes. Article XIII section 19 states that "the Board may delegate to a local assessor the
16 duty to assess a property used but not owned by a state assessee on which the taxes are to be paid
17 by the local assessee."

**PROPERTY OWNED BY LOCAL ASSESSEE AND LEASED TO STATE ASSESSEE WITH
SALE OF LESSOR'S INTEREST**

18
19
20 Generally, a change in ownership of the underlying fee interest (i.e., the lessor's interest) in a
21 local assessee-owned but state-assessed property (i.e., the property is leased to a state assessee)
22 does not change the assessment jurisdiction. Since the property remains leased to a state assessee
23 it remains under Board jurisdiction.

24 No action should be taken by the county assessor. This is true even if the remaining term of the
25 lease is less than 35 years; in which case, if the property were under local assessment
26 jurisdiction, there would be a change in ownership. However, because the property remains
27 under state assessment jurisdiction, it is not subject to the change in ownership provisions of
28 article XIII A.

29 Since the Board may delegate to the assessor the duty to assess property that is "used" but not
30 "owned" by a state assessee and on which the taxes are paid by the local assessee, such
31 delegation generally occurs for buildings and leasehold improvements that are "partially" leased
32 and/or occupied by state assessees. The Board may not however, delegate the assessment of any
33 portion of a state assessee's improvements, including leasehold improvements, if they are
34 "owned" by the state assessee.

35

ALTERNATIVE 2: INCLUDES LANGUAGE FOR MR. LUCKEY'S PROPOSAL**1 PROPERTY OWNED BY A LOCAL ASSESSEE AND LEASED TO STATE ASSESSEE WITH
2 LEASE TERMINATION**

3 In this scenario, assessment jurisdiction changes from state to local as of the date of lease
4 termination because after that point in time a state assessee neither owns nor uses the property.
5 As locally assessed, the property becomes subject to article XIII A.

6 If the lease was for an original term of 35 years or more, the termination of the lease is a change
7 in ownership, and the county assessor should reassess the property and establish a new base year
8 value. The assessor should also issue a supplemental assessment. (Since the property is owned by
9 a local assessee, the property was previously assessed on the local roll and hence a base year
10 value for the property should exist. The base year value of the property should be revised, if
11 necessary, to reflect any incremental base year value(s) resulting from new construction while
12 the property was subject to state assessment. If the improvement was constructed and
13 immediately occupied by the state assessee—for example, under a ground lease arrangement—a
14 base year value for the improvement will not exist. The assessor should determine what the base
15 year value of the improvements would have been as of the date of their completion.

16 If the lease was for an original term of less than 35 years, then there is no change in ownership
17 and hence no reassessment or supplemental assessment. For the lien date following lease
18 termination, the county assessor should enroll a taxable value consistent with the provisions of
19 article XIII A. Normally, this would be the lesser of the property's factored base year value or
20 current market value, as prescribed in subdivision (a) of section 51.

21 FOREIGN IMPROVEMENTS

22 Improvements owned by one party and located on land owned by another party are called
23 "foreign improvements." For example, leasehold improvements owned by a lessee/tenant are a
24 type of foreign improvement. Foreign improvements owned by a local assessee on state-assessed
25 land are subject to local assessment if the improvements are not used by (i.e., leased by) the state
26 assessee. The county assessor should assess such improvements as he or she assesses other
27 locally assessed property. In the case of foreign improvements owned by a state assessee on land
28 owned by a local assessee, both the improvements and the land are may be state assessed—the
29 improvements because they are owned by the state assessee and the land because it is used by the
30 state assessee.

31 When a state assessee leases less than 100% of a building or other structure property owned by a
32 local assessee or leases 500 square feet or less of land parcel owned by a local assessee, and the
33 taxes are paid by the local assessee, the Board may delegates its authority to assess the building
34 or structure to the county assessor. As discussed above, however, the assessment of leasehold
35 improvements owned by a state assessee located in or on such a building or structure may not be
36 delegated. Under article XIII, section 19, the Board retains its authority to assess leasehold
37 improvements owned by a state assessee, and such improvements should not be assessed by the
38 county assessor.

ALTERNATIVE 2: INCLUDES LANGUAGE FOR MR. LUCKEY'S PROPOSAL

1 If a local assessee leases a portion of land in excess of 500 square feet in area to a state assessee,
2 and the state assessee then constructs an improvement on the land, the Board retains assessment
3 jurisdiction over both the portion of land and the improvement-the portion of land because it is
4 used by a state assessee and the improvement because it is owned by a state assessee. For
5 example, if a local assessee leased a portion of land to a state assessee, and the state assessee
6 constructed a cellular communications tower on the land, both the land and the tower would be
7 state assessed.

LESSOR'S EXEMPTION CLAIMS

8
9 If a lessor's exemption is sought for state-assessed property, the property owner must file a
10 lessor's exemption claim form with the local assessor where the property is located. The Board
11 has no authority to grant the exemption; this power rests with county assessors. The assessor
12 receiving an exemption claim involving state-assessed property should act on the claim in the
13 same manner as a claim for locally assessed property. After the claim is processed, the assessor
14 should forward a copy of the claim form with advice of the assessor's determination to the
15 Board's Valuation Division.

DISCOVERY OF STATE ASSESSED PROPERTY

16
17 The Board's discovery of state-assessed property is largely through taxpayer reporting. A state
18 assessee is required to file an annual property statement detailing, among other things, all
19 property owned or used, except licensed motor vehicles, as of the lien date.

20 County assessors' offices may discover property under state jurisdiction as part of their normal
21 assessment duties (e.g., the processing of changes in ownership, memoranda of leases, and
22 building permits). When an assessor discovers that a state assessee has purchased or leased
23 locally assessed property, the assessor should notify the Board's Valuation Division. If the Board
24 determines that it has assessment jurisdiction, the Valuation Division will notify the local
25 assessor via a "List of Land Changes". The Board will also send new land identification maps to
26 the assessor identifying the property with a Board ("SBE") parcel number.

27 In order to determine the assessment jurisdiction for newly constructed improvements, assessors
28 should send copies of all building permits relating to construction by state assesseees or their
29 contractors to the Valuation Division. If Valuation Division staff determines that the newly
30 constructed improvements authorized by a particular permit are not subject to state assessment,
31 the assessor will be notified by staff to locally assess the property.

STATE BOARD OF EQUALIZATION MAPS AND PARCEL NUMBERS

32
33 The Board sends land identification maps ("Board maps") to local assessors when there is a
34 change in assessment jurisdiction. The maps describe the property involved with respect to
35 officially established survey lines, corners, or other reference points shown on maps of record.
36 The Board's parcel numbers ("SBE parcel numbers") are quite different from the parcel numbers

ALTERNATIVE 2: INCLUDES LANGUAGE FOR MR. LUCKEY'S PROPOSAL

1 (“APNs”) assigned by local assessors. The numbers derive from completely distinct mapping
 2 systems.

3 Each parcel of land owned or used by a state assessee is assigned a unique parcel number. Each
 4 SBE parcel number has four groups of characters—for example, 872-27-16D-1A.

5 1. The first group of characters is a unique number assigned to each state assessee. In this
 6 example, "872" represents Southern Pacific Railroad Company. Assesseees are
 7 numerically grouped by industry as follows:

Industry	SBE Number		
Gas, Electric, Water and Gas Transmission	100	—	199
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Pipeline Companies	400	—	499
Railcar Maintenance Facilities	500	—	699
Railroad Companies	800	—	899
Long Distance Telephone Companies	2000	—	2499
Wireless Telephone Companies	2500	—	2599
Radio Common Carrier Companies	3000	—	3999
Long Distance Telephone Companies	7500	—	7999
Wireless Telephone Companies	D001	—	D999
Long Distance Telephone Companies	P001	—	P999

8
 9 2. The second group of characters is a unique code for each county. In the example, "27"
 10 represents Monterey County. County numbers are as follows:

County Number	County Name	County Number	County Name
1	Alameda	30	Orange
2	Alpine	31	Placer
3	Amador	32	Plumas
4	Butte	33	Riverside
5	Calaveras	34	Sacramento
6	Colusa	35	San Benito
7	Contra Costa	36	San Bernardino
8	Del Norte	37	San Diego
9	El Dorado	38	San Francisco
10	Fresno	39	San Joaquin
11	Glenn	40	San Luis Obispo
12	Humboldt	41	San Mateo
13	Imperial	42	Santa Barbara
14	Inyo	43	Santa Clara
15	Kern	44	Santa Cruz
16	Kings	45	Shasta
17	Lake	46	Sierra
18	Lassen	47	Siskiyou
19	Los Angeles	48	Solano
20	Madera	49	Sonoma
21	Marin	50	Stanislaus
22	Mariposa	51	Sutter
23	Mendocino	52	Tehama

ALTERNATIVE 2: INCLUDES LANGUAGE FOR MR. LUCKEY'S PROPOSAL

1

24	Merced	53	Trinity
25	Modoc	54	Tulare
26	Mono	55	Tuolumne
27	Monterey	56	Ventura
28	Napa	57	Yolo
29	Nevada	58	Yuba

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3. The third group of characters identifies the map and its position in a series. This group consists of from 1 to 3 characters. In the example, "16" indicates that the map is the 16th in a series of maps for that county. Each map change from the original map filed is noted by an alphabetical suffix, "A", "B", "C", etc. In the example, "16A" indicates that this map is a supplementary map that has been filed. With each map revision the specific parcels will be renumbered starting from 1.

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4. The fourth part of a SBE parcel number identifies a specific parcel. This group consists of from 1 to 3 characters. A change to a specific parcel is noted by an alphabetical suffix. In the example, "1A" indicates that it has been revised once.

10

11

12

State assessed property that transfers from one state assessee to another does not receive a new SBE parcel number. Instead, SBE parcel numbers are listed following the new owner's company number. For example, the state assessee number for Union Pacific Railroad Company that is "843". If the example property were acquired by Union Pacific Railroad Company, the property would simply be listed under 843, and the new SBE parcel number would be 843-872-27-16D-1A.

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BOARD OF EQUALIZATION
REVENUE ESTIMATE

ISSUE #00-046

STATE ASSESSMENT MANUAL

Delegating Assessment Jurisdiction of State-Assessed Land to County Assessors

Staff Recommendation

Under the staff's recommendation, the Board would authorize publication of the *State Assessment Manual* (formerly AH 541) without describing the Board's practice and procedure on delegation of lands that are used but not owned by a state-assessee. Additionally, the Board would direct staff to conduct a study and prepare a report on emerging issues related to the delegation of lands that are used but not owned by a state-assessee. This would provide the staff opportunity to investigate rapidly changing developments in the telecommunications industry, including the issue of state-assessee's subleasing sites from communications tower aggregators.

Alternative 1

Under the staff's alternative proposal, the Board would authorize publication of the manual with language describing the Board's historical practice and procedure on delegating assessment jurisdiction over lands that are used but not owned by a state-assessee to county assessors.

Alternative 2

Under the alternative proposed by industry, the Board would delegate to county assessors the jurisdiction to assess land, 500 square feet or less, that is used but not owned by a state-assessee and on which the property taxes are paid by a local assessee.

Background, Methodology, and Assumptions

Under current practice, land that is used by a state-assessee and improvements that are solely used by a state-assessee are assessed by the Board of Equalization. Buildings that are not solely used by a state-assessee and for which the taxes are paid by a local assessee are delegated to and assessed by the county assessors.

Recently, communications tower aggregators have purchased communications towers or leasing rights to the towers from wireless communications providers. These providers, who are, in general, state-assessee's, then sublease antenna space and a portion of the site from the aggregator. At issue is whether or not the jurisdiction to assess land, 500 square feet or less, that is used but not owned by a state-assessee and on which the property taxes are paid by a local assessee should be delegated to the county assessors.

There is no revenue effect under the staff's recommendation because it would not result in an immediate policy change. There may be a revenue effect in the future if the Board establishes a new policy different from past practice as a result of the study proposed under the recommendation. There is no revenue effect under alternative 1 since it would continue current practice.

Under alternative 2, the delegated properties would be moved from the state roll to the local rolls. Under state assessment, they are assessed at the current fair market value. Under local assessment, these would be subject to Proposition 13 restrictions and would be assessed at the lesser of the current fair market value and the factored base year value. Any subsequent change in ownership would cause the county assessor to establish a new base year value based on the fair market value as of the change in ownership.

It is likely that very few, if any, of the lands subject to California Land Conservation Act (CLCA), or open-space, contracts that are used but not owned by state-assesseees would be delegated. Under local assessment, there would be a significant increase in property tax revenues for these lands since the statutory capitalization rates used by county assessors to value land subject to CLCA contract are significantly lower than the capitalization rate used in valuing state-assessed property. Staff estimates that the assessed values of these lands using the CLCA capitalization rates would be two or three times their assessed values as state-assessed property, including land located within a farmland security zone that is valued at 65 percent of the regular CLCA contract value. Therefore, it is likely that the lease contracts for CLCA property that might be delegated would continue to be written so that such property would not be subject to delegation.

In staff's opinion, alternative 2 would most directly impact the valuation of wireless communications tower sites. Since the sites are leased from the local landowners for terms less than 35 years in duration, no change in ownership is triggered by these leases. Each site would be valued at the factored base year value of the local landowner. Unless the underlying parcel changed ownership since it was leased as a tower site, its current fair market value, which would take into account the tower site use, generally would be substantially higher than its factored base year value.

According to Valuation Division staff estimates, the value on the state roll of wireless communication tower sites that are used but not owned by a state-assessee, excluding possessory interests, amounts to less than \$155 million. The portion that could be delegated under Alternative 2 because the property is 500 square feet or less amounts to approximately \$41 million. The revenue effect is difficult to pinpoint due to the various factors involved and their lack of predictability. Among the factors are:

- The mixture, now and in the future, of property used but not owned by a state-assessee on which the taxes are paid by a local assessee vs lands subject to CLCA contracts or other property used but not owned by a state-assessee on which the taxes are not paid by a local assessee.
- The number, size, and value of the potentially affected properties in the future.

Assuming that the average factored base year value of the properties described above that are 500 square feet or less is eighty percent lower than the fair market value and that all of these properties are delegated, the estimated overall decrease in assessed value under alternative 2 is then 80 percent x \$41 million, or \$32.8 million. The estimated annual decrease in revenues at

the basic one percent property tax rate is \$32.8 million x 1 percent, \$328,000. This decrease will grow over time as the factored base year values lag behind the current fair market values.

Revenue Summary

There is no immediate revenue effect under the staff's recommendation, as it would result in no policy change pending the outcome of the proposed study. There is no revenue effect under alternative 1 since it would continue current practice. The estimated annual decrease in revenues at the basic one percent property tax rate under alternative 2 is \$328,000.

Preparation

This revenue estimate was prepared by Aileen Takaha Lee, Research and Statistics Section, Agency Planning and Research Division. The estimate was reviewed by Ms. Laurie Frost, Chief, Agency Planning and Research Division, and by Mr. Harold Hale, Chief, Valuation Division, Property Taxes Department. For additional information, please contact Ms. Lee at 445-0840.

Current as of October 13, 2000.