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No. 2020/048

September 21, 2020

TO CLERKS OF THE BOARD AND
COUNTY ASSESSORS:

**ASSEMBLY BILL 107 – UPDATE ON LEGISLATIVE STATUS
ASSESSMENT APPEALS BOARDS – HEARINGS AND DECISIONS**

On August 31, 2020, Assembly Bill 107 was passed by the Assembly and Senate. If signed into law by the Governor, Assembly Bill 107 would amend, amongst other things, Revenue and Taxation Code¹ section 1604 to extend the deadline within which an assessment appeals board decision must be made; and adds sections 1616 and 1752.4 to expressly allow remote equalization hearings.

Section 16 of article XIII of the California Constitution establishes in each county an independent body to hear property assessment related disputes between the county assessor and property taxpayers, commonly referred to as the appeals board. Either the county board of supervisors performs this duty directly, meeting as the "county board of equalization," or the county creates a separate "assessment appeals board" with members of the board of supervisors appointing persons to serve. Alternatively, county boards of supervisors of two or more counties may enter into an agreement to establish a multijurisdictional assessment appeals board to equalize the valuation of taxable property within each participating county.

Property owners can appeal the value of their property by filing an *Assessment Appeal Application* with the Clerk of the County Board of Supervisors during the regular assessment filing period or within 60 days of a notice of assessment. Generally, an assessment appeals board² must hear evidence and make a determination on an assessment appeals application within two years of the timely filing of the application.

Two-Year Decision Period

Once an assessment appeal application is timely filed, section 1604 requires that an assessment appeals board hear evidence and make a determination on that application within two years of the timely filing of the application, which is determined by the postmark date for mailed applications. Section 1604(c) reads in pertinent part:

¹ All statutory references are to the Revenue and Taxation Code, unless otherwise specified.

² For purposes of this letter, the term "assessment appeals board" includes a County Board of Supervisors sitting as a county board of equalization, an assessment appeals board appointed by the County Board of Supervisors, and a multijurisdictional assessment appeals board.

If the county board fails to hear evidence and fails to make a final determination on the application for reduction in assessment of property within two years of the timely filing of the application, the applicant's opinion of value as reflected on the application for reduction in assessment shall be the value upon which taxes are to be levied for the tax year or tax years covered by the application . . .

In addition, Property Tax Rule³ (Rule) 309, which implements section 1604(b), reads in pertinent part:

A hearing must be held and a final determination made on the application within two years of the timely filing of an application for reduction in assessment submitted pursuant to subdivision (a) of section 1603 of the Revenue and Taxation Code, unless the applicant or the applicant's agent and the board mutually agree in writing or on the record to an extension of time.

Assembly Bill 107 would amend section 1604 to extend to March 31, 2021 the two-year deadline by which an assessment appeals board is required to render a final determination on a “qualified application.” A “qualified application” is an application that was timely filed and has a two-year deadline occurring during the period beginning on March 4, 2020 through March 30, 2021.

Remote Hearings

AB 107 would add sections 1616 and 1752.4 to the Revenue and Taxation Code. These sections expressly provide that existing law does not prohibit remote hearings. A remotely conducted hearing would include, but would not be limited to, the following:

- the use of video, audio, and telephonic means for remote appearances;
- the electronic exchange and authentication of documentary evidence;
- e-filing and e-service;
- the use of remote interpreting; and
- the use of remote reporting and electronic recording to make the official record of an action or proceeding.

Additionally, sections 1616 and 1752.4 would require that if a County Board of Supervisors has enacted any rules and procedures for appeals hearings, remote hearings must be compliant with those rules and procedures.

During the August 18-19, 2020 Board Meeting, the Board heard testimony from various stakeholders regarding the practical difficulties of conducting remote hearings while ensuring all due process, public access, procedural, and evidentiary rights are maintained. The Board voted to initiate a collaborative workgroup to further analyze these challenges. The workgroup will provide recommendations to the full Board at a future Board Meeting on additional guidance,

³ All references to Property Tax Rule or Rules are to sections of title 18 of the California Code of Regulations.

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regulations, or statutory changes needed to facilitate fair and efficient remote hearings and the sharing of best practices to promote uniformity of operations across the 58 California counties.

A copy of the proposed amendments to section 1604 with changes noted in strikethrough/italic format and proposed new sections 1616 and 1752.4 are enclosed. If you have any questions regarding these provisions, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:gs
Enclosure

PROPOSED

Section 1604 of the Revenue and Taxation Code is amended to read:

1604. (a) (1) In counties of the first class, annually, on the fourth Monday in September, the county board shall meet to equalize the assessment of property on the local roll. It shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

(2) In all other counties, annually, on the third Monday in July, the county board shall meet to equalize the assessment of property on the local roll. It shall continue to meet for that purpose, from time to time, until the business of equalization is disposed of.

(b) (1) An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund, if the applicant states in the application that the application is also intended to constitute a claim for refund pursuant to the provisions of Section 5097.

(2) The county board shall have no power to receive or hear any application for a reduction in an escaped assessment made pursuant to Section 531.1 nor a penal assessment levied in respect thereto, nor to reduce those assessments.

(c) If the county board fails to hear evidence and fails to make a final determination on the application for reduction in assessment of property within two years of the timely filing of the application, the applicant's opinion of value as reflected on the application for reduction in assessment shall be the value upon which taxes are to be levied for the tax year or tax years covered by the application, unless either of the following occurs:

(1) The applicant and the county board mutually agree in writing, or on the record, to an extension of time for the hearing.

(2) The application for reduction is consolidated for hearing with another application by the same applicant with respect to which an extension of time for the hearing has been granted pursuant to paragraph (1). In no case shall the application be consolidated without the applicant's written agreement after the two-year time period has passed or after an extension of the two-year time period previously agreed to by the applicant has expired.

The reduction in assessment reflecting the applicant's opinion of value shall not be made, however, until two years after the close of the filing period during which the timely application was filed. Further, this subdivision shall not apply to applications for reductions in assessments of property where the applicant has failed to provide full and complete information as required by law or where litigation is pending directly relating to the issues involved in the application.

(d) (1) When the applicant's opinion of value, as stated on the application, has been placed on the assessment roll pursuant to subdivision (c), and the application requested a reduction in the base year value of an assessment, the applicant's opinion of value shall remain on the roll until the county board makes a final determination on the application. The value so determined by the county board, plus appropriate adjustments for the inflation factor, shall be entered on the assessment roll for the fiscal year in which the value is determined. No increased or escape taxes other than those required by a purchase, change in ownership, or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the county board failed to act.

(2) When the applicant's opinion of value has been placed on the assessment roll pursuant to subdivision (c) for any application other than an application requesting a reduction in base year value, the applicant's opinion of value shall be enrolled on the assessment roll for the tax year or tax years covered by that application.

(e) The county board shall notify the applicant in writing of any decision by that board not to hold a hearing on ~~his or her~~ *the applicant's* application for reduction in assessment within the two-year period specified in subdivision ~~(e)~~ *(c) or, if applicable, within the period as modified by subdivision (f)*. This notice shall also inform the applicant that the applicant's opinion of value as reflected on the application for reduction in assessment shall, as a result of the county board's failure to hold a hearing within the prescribed time period, be the value upon which taxes are to be levied in the absence of the application of either paragraph (1) or (2) of subdivision (c).

(f) (1) Notwithstanding subdivision (c) or any other law, the two-year deadline by which a county board is required under subdivision (c) to render a final determination on a qualified application shall be extended until March 31, 2021. This extension of the two-year deadline shall apply retroactively to all qualified applications that have a two-year deadline under subdivision (c) occurring during the period beginning on March 4, 2020, and before the operative date of the act adding this subdivision.

(2) For purposes of this subdivision, "qualified application" means a pending application for reduction in assessment of property as described in subdivision (c) that is timely filed with the county board and has a two-year deadline under subdivision (c) occurring during the period beginning on March 4, 2020, and before March 31, 2021.

Section 1616 is added to the Revenue and Taxation Code, to read:

1616. (a) Nothing in this chapter or in any other law shall be construed to prohibit a county board from conducting hearings remotely. Remotely conducted hearings include, but are not limited to, the use of video, audio, and telephonic means for remote appearances; the electronic exchange and authentication of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.

(b) If a county board conducts a hearing remotely, it shall ensure compliance with the provisions of this chapter and any rules and procedures adopted by the county board of supervisors pursuant to Section 16 of Article XIII of the California Constitution.

Section 1752.4 is added to the Revenue and Taxation Code, to read:

1752.4. (a) Nothing in this chapter or in any other law shall be construed to prohibit a multijurisdictional assessment appeals board from conducting hearings remotely. Remotely conducted hearings include, but are not limited to, the use of video, audio, and telephonic means for remote appearances; the electronic exchange and authentication of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.

(b) If a board conducts a hearing remotely, it shall ensure compliance with the provisions of this chapter and any rules and procedures adopted by the county board of supervisors pursuant to Section 16 of Article XIII of the California Constitution.