

MADERA COUNTY ASSESSMENT PRACTICES SURVEY

NOVEMBER 2012

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No. 2012/046

November 9, 2012

TO COUNTY ASSESSORS:

MADERA COUNTY
ASSESSMENT PRACTICES SURVEY

A copy of the Madera County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in each county and city and county to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Thomas P. Kidwell, Madera County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Madera County Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from January through February 2011. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Kidwell and his staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:dcl
Enclosure

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INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of every county assessor's office. This report reflects the BOE's findings in its current survey of the Madera County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Madera County Board of Supervisors, Grand Jury, and Assessment Appeals Board. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Thomas P. Kidwell, Madera County Assessor, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys* at page 2) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

SCOPE OF ASSESSMENT PRACTICES SURVEYS

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code¹ section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix B.

Our survey of the Madera County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contacts with officials in other public agencies in Madera County who provided information relevant to the property tax assessment program.

Since this survey did not include an assessment sample pursuant to Government Code section 15640(c), our review included an examination to determine whether "significant assessment problems" exist, as defined by Rule 371.²

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

¹ Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

² All rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office. However, it also identifies program elements that we found particularly effective and describes areas of improvement since our last assessment practices survey.

Since our last assessment practices survey, the assessor has implemented numerous improvements to assessment programs under his administration, and continues to be involved in efforts to ensure uniform assessments across the state. The following is a listing of some of those improvements:

- Staff has designed and deployed a decline-in-value module by which they have enrolled declines in value for approximately 18,000 properties for the 2010-11 roll year.
- The assessor has implemented programs to receive recorded documents from the Madera County Recorder's Office and building permits from the Madera County Resource Management Agency in electronic format.
- The assessor has acquired online access to the Department of Motor Vehicles' (DMV) records in order to assist in the determination of vessel ownerships and valuations.

In addition, the assessor and senior staff continue to participate and provide leadership in the chiefs' and assessors' associations. Staff also supports and participates in California Counties Cooperative Audit Services Exchange (CCCASE).

Many of our recommendations concern portions of programs that are currently effective, but need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

In the area of administration, we noted the assessor effectively manages budget and staffing, workload, appraiser certification, and assessment appeals. However, we found improvement is needed in the staff property and activities program, as well as in the exemptions program.

In the assessment of real property, the assessor has made a diligent effort to recognize declines in value and properly assess California Land Conservation Act property. However, we found improvement is needed in the change in ownership, new construction, taxable possessory interests, and mineral property programs.

The assessor has effective programs for processing business property statements, as well as assessing manufactured homes and vessels. The assessor also has an effective audit program, but we have a recommendation for improvement. We also noted deficiencies in the assessor's programs for business equipment valuation, and aircraft assessments.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

We found no significant assessment problems as defined in Rule 371. Since Madera County was not selected for assessment sampling pursuant to Government Code section 15643(b), this report

does not include the assessment ratios that are generated for surveys that include assessment sampling. Accordingly, pursuant to section 75.60, Madera County continues to be eligible for recovery of costs associated with administering supplemental assessments.

Following is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

RECOMMENDATION 1: Improve the staff property and activities program by: (1) ensuring required staff complete and submit BOE-121, *Statement of Financial Interest*, and the internal *Conflict of Interest Statement*; and (2) expanding and complying with internal review procedures for the assessment of staff-owned property.....10

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RECOMMENDATION 7: Improve the taxable possessory interest program by: (1) exempting all qualifying low-value taxable possessory interests, (2) reappraising changes in ownership of taxable possessory interests in accordance with section 61(b), (3) not assessing a taxable possessory interest to a public user of public lands, (4) excluding newly created taxable possessory interests established by month-to-month agreements from supplemental assessments in accordance with section 75.5(b), and (5) issuing supplemental assessments upon the renewal or creation of a taxable possessory interest.35

RECOMMENDATION 8: Use reserves indicated by current market data for the valuation of petroleum property.38

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RECOMMENDATION 11: Improve the valuation of business equipment by: (1) supporting any modifications to cost indices and percent good factors published in AH 581 with market evidence, (2) applying the mobile agricultural percent good factors prescribed in Table 6 of AH 581 as intended, and (3) properly classifying, assessing, and allocating values for service station personal property and fixtures.45

RECOMMENDATION 12: Grant the historical aircraft exemption only to individual aircraft owners who provide sufficient documentation for compliance with section 220.5.....49

OVERVIEW OF MADERA COUNTY

Madera is the Spanish word for lumber, the county's first industry. Madera County lies in the exact geographical center of California, stretching from the San Joaquin Valley to the crest of the Sierra Nevada. Bordered by the Chowchilla River to the north and the San Joaquin River to the south, Madera County includes some of the richest agricultural land in the nation. Grapes, almonds, and milk are the leading crops.

Madera County is one of the faster growing California counties, with a population increase of 22.5 percent from 2000 to 2010; the current population is approximately 151,000. The county encompasses approximately 2,150 square miles and it is bordered on the north by Merced and Mariposa Counties, on the east by Mono County, and on the west and south by Fresno County. This agricultural county was incorporated in 1893 from a portion of Fresno County lying north of the San Joaquin River. Madera County has two incorporated cities: Madera and Chowchilla.

The following table displays information pertinent to the 2010-11 assessment roll:

	PROPERTY TYPE	ENROLLED VALUE
Secured Roll	Land	\$3,512,638,914
	Improvements	\$6,457,216,873
	Personal Property	\$354,922,639
	Total Secured	\$10,324,778,426
Unsecured Roll	Land	\$9,494,146
	Improvements	\$132,771,471
	Personal Property	\$282,057,797
	Total Unsecured	\$424,323,414
Exemptions³		(\$468,360,621)
	Total Assessment Roll	\$10,280,741,219

³ The value of the Homeowners' Exemption is excluded from the exemptions total.

The next table sets forth the changes in assessed values over recent years:

ROLL YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2010-11	\$10,280,741,000	-7.3%	-1.9%
2009-10	\$11,086,406,000	-8.3%	-2.4%
2008-09	\$12,088,238,000	7.0%	4.7%
2007-08	\$11,300,089,000	9.8%	9.6%
2006-07	\$10,293,282,000	16.7%	12.3%

ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include the assessor's budget and staffing, workload, appraiser certification, staff property and activities, assessment appeals, and exemptions.

Budget and Staffing

The following table sets forth the assessor's gross budget and staffing over recent years:

BUDGET YEAR	GROSS BUDGET	CHANGE	PERMANENT STAFF
2010-11	\$2,299,977	-15.6%	32
2009-10	\$2,724,410	3.3%	38
2008-09	\$2,637,910	5.3%	38
2007-08	\$2,504,267	10.6%	38
2006-07	\$2,263,497	14.0%	38

The assessor's number of budgeted staff members is 32 and consists of the assessor, the chief appraiser, the assessment office manager, 5 supervisors, 9 appraisers, 2 auditor-appraisers, 2 cadastral drafting technicians, 7 assessment technicians, and 4 office assistants. This was a 15.8 percent decrease in budgeted staff members from the prior year.

Workload

Generally, the assessor is responsible for annually determining the assessed value of all real property and business personal property (including machinery and equipment) in the county. In order to accomplish this task, the assessor reviews recorded documents and building permits to discover assessable property. In addition, the assessor will identify and value all business personal property (including machinery and equipment), process and apply tax exemption claims for property owned by qualifying religious and welfare organizations, and prepare assessment appeals for hearing before the local board of equalization.

In addition, for most real property, the assessor is required to annually enroll the lower of current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has impacted the taxable value of the property for that year. In certain economic times, this decline may greatly impact the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

The prior two tables show that the gross budget has increased four out of the last five years, with the most recent year showing a decrease, while the total assessed value has increased through to the 2008-09 roll year, with the last two years showing a decrease. Over this same five-year

period, the assessor's workload has fluctuated. The number of reappraisable transfers due to changes in ownership shows an increase one year and a decrease the next, with the most recent year reflecting a decrease. The number of permits resulting in assessable new construction showed a large increase for the 2007-08 roll year before decreasing each of the last three years. The number of decline-in-value assessments and assessment appeals filed have shown drastic increases for the 2008-09 and 2009-10 roll years, and yet showed a recent decrease for the 2010-11 roll year.

These trends are shown in the following table:

WORKLOAD DESCRIPTION	2010-11	2009-10	2008-09	2007-08	2006-07
Changes in Ownership	4,015	4,888	3,565	3,892	3,743
New Construction	387	604	1,052	2,319	1,433
Declines In Value	18,298	19,983	14,615	101	121
Assessment Appeals	481	692	672	68	66

Appraiser Certification

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless he or she holds a valid appraiser's certificate issued by the BOE. There are a total of 16 certified appraisers on staff, including the assessor; 15 hold advanced appraiser's certificates. We found that the assessor and his staff possess the required appraiser's certificates. Additionally, we found that the auditor-appraisers performing audits meet the requirements referenced in section 670(d). The assessor does not use contract appraisers.

In Madera County, the chief appraiser oversees the training and certification program for appraisers. He continuously tracks individual appraiser education, utilizing the BOE's annual reports. Appraisers are encouraged to take the necessary courses to obtain their advanced certification as soon as possible; however, there is no financial incentive for an advanced certificate.

According to the BOE report on training hours of certified staff, the assessor and his appraisers are current in their continuing education hours.

Staff Property and Activities

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.

The assessor becomes aware of employee-owned property through name recognition when a recorded deed is received in the office, through self-declaration by the employee acquiring the property, and from the annual filing of the California Fair Political Practices Commission

Form 700, *Statement of Economic Interests* (Form 700), which requests information regarding employee ownership in any real property, other than their primary residence, as well as ownership interest in any business entity.

The assessor has written procedures for the annual valuation of staff's economic interests. The procedures commence with the requirement that each staff member annually complete BOE-121, *Statement of Financial Interest*. Each year, the chief appraiser submits a list of all staff-owned property within the county to a staff appraiser who has no personal interest in the assessed values. If a reassessment is warranted on any staff-owned property, the staff appraiser completes an appraisal of the property, which is then reviewed by a supervisor who has no personal interest in the assessed values, before the appraisal is forwarded to the chief appraiser for further review. Finally, a request is made for the appraisal to be reviewed by another county assessor's office for further confirmation.

Pursuant to the Political Reform Act, public officials are required to disclose assets and income, which may be materially affected by their official actions, and to disqualify themselves from participating in the decision-making process affecting their personal economic interests. Each public agency establishes its own list of positions designated to conform to this requirement that are in addition to the list of filers covered under Government Code section 87200. In Madera County, the assessor is required to file Form 700 with the county clerk.

The assessor also has a conflict of interest policy addressing appraisals and audits for property owned by staff, owned by a relative of staff, and owned by a friend of staff. This policy also speaks to discussions with friends and relatives regarding appraisal and audit information, as well as establishes the parameters for outside employment. Staff is required to sign the assessor's *Conflict of Interest Statement* evidencing their intention to comply with the policy.

We reviewed staff statements required by the assessor's policies and found most staff has complied. We also reviewed the compliance with the assessor's procedures for the assessment of staff properties. We have identified areas where improvements can be made.

RECOMMENDATION 1: Improve the staff property and activities program by:
(1) ensuring required staff complete and submit BOE-121, *Statement of Financial Interest*, and the internal *Conflict of Interest Statement*; and (2) expanding and complying with internal review procedures for the assessment of staff-owned property.

Ensure required staff complete and submit BOE-121, *Statement of Financial Interest*, and the internal *Conflict of Interest Statement*.

We found the assessor does not comply with internal procedures for staff filings of conflict of interest statements and statements of financial interests. In response to a request for copies of BOE-121, the statements provided were dated on or after the date of request; statements were provided for all certified staff, but not for any noncertified staff, who were also required to file per the assessor's policies. Additionally, in response to a request for copies of the internal

Conflict of Interest Statement, the statements provided were dated on or after the date of request; statements were not provided for all staff required to comply.

As previously explained, the assessor's procedures require each staff member to annually complete and submit BOE-121. These procedures are more stringent than section 672, which requires only certified appraisers to disclose annually their financial interests on a form provided by the BOE. Additionally, the assessor's procedures require staff to file an internal form entitled *Conflict of Interest Statement*.

Compliance with procedures already in place will allow the assessor to monitor more easily the assessment of properties owned by staff.

Expand and comply with internal review procedures for the assessment of staff-owned property.

The assessor's procedures for the review of staff-owned property assessments, as written, are applicable only to annual assessments; the procedures do not address the assessment of completed new construction or newly purchased real and personal property during the assessment year. While the assessor's policy includes thorough review procedures, the assessor does not consistently comply with the policy, and reappraisable events that occur during the year are not reviewed to the standards established in the assessor's policy for annual reviews. We reviewed numerous assessments of staff-owned property and found that the assessor does not consistently comply with internal procedures for the review of assessment of staff-owned property, which include a review by a supervisor and the chief appraiser. We found two annual assessments for staff-owned vessels and two assessments of completed new construction on staff-owned real property lacking compliance with the assessor's internal review procedures.

During the survey, we pointed out this shortcoming and discussed expanding the procedures to include purchases of real and personal property, as well as the completion of new construction, throughout the assessment year. As a result, revisions to the assessor's procedures addressing these issues were commenced while our survey was still in progress. We commend the assessor for this effort to make improvements so quickly.

Assessors are encouraged to ensure effective procedures are in place that will preclude improprieties or even the appearance of improprieties. The expansion of the assessor's existing internal procedures and compliance with those expanded procedures will promote a more acceptable level of oversight regarding the assessment of staff-owned property.

Assessment Appeals

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeals process.

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of

equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board (clerk). The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application for reduction by the same taxpayer.

Madera County has one assessment appeals board (AAB) that consists of a three-member panel, with two alternate members. While an amended ordinance, dated March 30, 2010, allows the board of supervisors to appoint hearing officers, the county has yet to appoint any. All of the existing assessment appeals board members have completed the mandatory training as required by section 1624.01. The three-member panel hears cases for changes in value affecting properties on both the unsecured and secured rolls.

The *Application for Changed Assessment* is available from the clerk and from the assessor's website. Appeal hearings are typically scheduled the first Thursday of every month, as needed. The filing period for applications for changed assessment in Madera County is from July 2 through November 30.

The following table shows the assessment appeals workload over recent years:

ASSESSMENT ROLL	2010-11	2009-10	2008-09	2007-08	2006-07
Appeals Filed	481	692	672	68	66
Appeals Carried Over From Prior Year	782	500	88	72	52
Total Appeals Workload	1,263	1,192	760	140	118
Resolution:					
Withdrawn	362	135	126	12	34
Stipulation	37	231	22	25	10
Appeals Reduced	3	16	23	1	1
Appeals Upheld	1	8	9	10	0
Appeals Increased	0	0	0	0	0
Other Determination*	155	20	80	4	1
Total Resolved	558	410	260	52	46
To Be Carried Over**	705	782	500	88	72

* Note: Includes, but not limited to late-filed appeals, applicants' failure to appear and board denied applications

** "To Be Carried Over" includes appeals with time extensions by mutual agreement of the parties.

Applications are received by the deputy clerk of the AAB (deputy clerk). Upon review, applications are date-stamped to verify the applicant has filed by the November 30 deadline. If an application has incorrect information, the deputy clerk confers with county counsel before notifying the taxpayer by mail of corrections needed for the application to proceed. If an application is received outside of the filing period, the deputy clerk notifies the taxpayer by mail. Prior to November 30, 2009, hard copies of all valid applications were sent to the assessor. Under the current procedure, the deputy clerk forwards an electronic copy of all valid applications to the assessor. The assessor logs each application into an electronic spreadsheet for tracking purposes. The chief appraiser then assigns the file to the proper real property appraiser or auditor-appraiser.

The appraiser (or auditor-appraiser) reviews each case and contacts the applicant to request data they may have to support their opinion of value. Data from the applicant is analyzed and the findings are presented to the assessor, who then determines whether a valuation adjustment is warranted. The applicant is subsequently notified of the findings and determination. The applicant may decide to withdraw the application for appeal, agree to a stipulated value, or proceed to an assessment appeals hearing. Applicants deciding to withdraw are asked to sign and return a notice of withdrawal to the deputy clerk. If the applicant agrees to a stipulation, the county counsel prepares a stipulation document. After the stipulation is signed by the assessor, the document is then sent to the applicant to be signed. Upon receipt of the signed stipulation, the deputy clerk forwards a hard copy to the assessor, who then presents the stipulation to the AAB for approval.

Periodically, the assessor sends a list of unresolved assessment appeals to the deputy clerk, who then schedules hearings and notifies each applicant of their hearing date 45 days or more before the hearing. The chief appraiser and/or supervising auditor-appraiser represent the assessor's office at all assessment appeals hearings.

We reviewed several assessment appeals prepared by the assessor and found them appropriately documented and complete. The assessor's practices comply with applicable statutes for assessment appeals and we have no recommendations for this program.

Exemptions

The exemptions program in Madera County is directed by an assessment technician, who reports directly to the assessment officer manager. The assessment technician is responsible for all in-house tasks related to the exemption program, including reviewing new and annual claims for completeness, timeliness, and compliance with regulations; mailing, receiving, and date-stamping claims; and responding to taxpayers' questions. Appraisers perform field checks of new properties or properties that have changed their use. Appraisers report their findings by using BOE-267-FIR, *Welfare Exemption Assessor's Field Inspection Report*, for welfare claims, and by using a county-developed form for church and religious claims.

Reference material used by the exemptions section includes the BOE website, the manual prepared for the California Assessors' Administrative Services Association – Education Committee for their exemptions workshops, and Publication 149, *Property Tax Welfare Exemption*, published by the BOE.

In our review of church, religious, welfare, and disabled veterans' exemptions, we found that the assessor uses the proper exemption claim forms, that exemption claims are properly date-stamped, and that the assessor has an effective method of review and field checks. In keeping with statutes, the assessor does not exempt vacant, unused property unless it meets the requirements of section 214 regarding qualifying ownership or section 214.02 regarding open space preservation and recreation.

Church and Religious Exemptions

Article XIII, section 3(f) of the California Constitution authorizes exemption of property used exclusively for religious worship. This constitutional provision, implemented by section 206, exempts buildings, the land on which they are situated, and equipment used exclusively for religious worship when such property is owned or leased by a church. Property that is reasonably and necessarily required for church parking is also exempt under article XIII, section 4(d) of the California Constitution, provided that the property is not used for commercial purposes. The church parking exemption is available for owned or leased property meeting the requirements of section 206.1. The Legislature has also implemented the religious exemption in section 207, which exempts property owned by a church and used exclusively for religious worship or for both religious worship and school purposes (excluding property used solely for schools of collegiate grade).

County assessors administer the church and religious exemptions. The church exemption, including the church parking exemption, requires an annual filing of the exemption claim. The religious exemption requires a one-time filing by the claimant, although the assessor annually mails a form to claimants to confirm continuing eligibility for the exemption. Once granted, the religious exemption remains in effect until terminated or until the property is no longer eligible for the exemption.

The following table sets forth religious and church exemption data for recent years:

ROLL YEAR	RELIGIOUS EXEMPTIONS	EXEMPTED VALUE	CHURCH EXEMPTIONS	EXEMPTED VALUE
2010-11	192	\$59,053,818	2	\$115,848
2009-10	191	\$58,798,889	2	\$116,122
2008-09	194	\$56,348,816	2	\$113,846
2007-08	190	\$48,756,950	2	\$111,614
2006-07	186	\$45,254,513	2	\$109,426

We found that the assessor effectively administers church exemptions. The proper forms are required of claimants and the properties receiving an exemption are reviewed for percentage of exempt use. However, we did find areas in need of improvement for the religious exemption program.

RECOMMENDATION 2: Properly administer the religious exemption program by: (1) granting the religious exemption only to real property owned by a religious organization, and (2) applying late-filed penalties for religious exemption claims when appropriate.

Grant the religious exemption only to real property owned by a religious organization.

We discovered an instance where the assessor granted a religious exemption to a property not owned by a religious organization.

Section 207 states that the religious exemption is for property owned and operated by a church and used for religious worship. Additionally, the questionnaire portion of the religious exemption claim form instructs the claimant to file either a church or welfare exemption claim if the property is not owned by the religious organization. Real and personal property used for worship, but not owned by the religious organization, may be eligible for a church exemption, not a religious exemption.

Apply late-filed penalties for religious exemption claims when appropriate.

We discovered a religious claim that was filed after the February 15 deadline, but penalties were not applied.

Section 271 provides that a timely first-time filing for the religious exemption is 90 days from the first day of the month following the month the property was acquired or February 15 of the following calendar year, whichever occurs earlier. If filed after the deadline, but before the following lien date, 90 percent of the exemption is available with a maximum penalty of \$250. The claim in this case should have received the late-filing penalty resulting in 90 percent of the available exemption with a maximum penalty to the claimant of \$250.

Welfare Exemption

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property owned and used exclusively for religious, hospital, or charitable purposes by organizations formed and operated exclusively for those purposes. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and county assessors. The BOE is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing either *Organizational Clearance Certificates* (OCCs) to qualified organizations or *Supplemental Clearance Certificates* (SCCs) to limited partnerships, which have a qualified organization as the managing general partner, that own and operate low-income housing. The assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the BOE or a valid SCC issued by the BOE if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner. The assessor may, however, deny an exemption claim based on non-qualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

The following table sets forth welfare exemption data for recent years:

ROLL YEAR	WELFARE EXEMPTIONS	EXEMPTED VALUE
2010-11	148	\$389,889,769
2009-10	147	\$373,263,708
2008-09	124	\$350,087,773
2007-08	127	\$342,053,342
2006-07	147	\$318,396,991

In Madera County, all first-time welfare exemption claims, as well as annual claims, are reviewed and the claimants contacted should there be any questions or discrepancies. OCCs are reviewed for validity when a claimant files for the first time and, subsequently, when the annual claim is submitted. The assessor does not grant a welfare exemption claim if the claimant does not possess a valid OCC.

While the majority of welfare exemptions in the county are properly administered, we did find several areas in need of improvement.

RECOMMENDATION 3: Improve the welfare exemption program by: (1) granting exemptions only to properties with exempt uses, and (2) granting exemptions only for those years claimed.

Grant exemptions only to properties with exempt uses.

We found an instance where the assessor granted a 100 percent exemption to a camp that was offered for rent to the general public.

Section 214(a) requires that property receiving the welfare exemption must be used exclusively for exempt purposes. Use of the property for class reunions, weddings, and business retreats is a commercial use and is in competition with for-profit entities. Consequently, only those areas of the property used solely for exempt activity are eligible for the exemption. Use of the property by non-exempt individuals or groups, or for non-qualifying activities, disqualifies the property from exemption. It is essential for exemptions staff to thoroughly review both first filings and annual claims for disqualifying use.

By allowing a non-qualifying use of otherwise exempt property, the assessor is not complying with exemption statutes. This also places the exempt entity in competition with for-profit entities that charge higher rates, since for-profit entities do not have a property tax exemption.

Grant exemptions only for those years claimed.

We found an instance where a claimant acquired a property in November 2009 and, subsequently, filed a welfare exemption claim for the 2009-10 roll year. The claimant did not submit a claim for the 2010-11 roll year. The assessor did not grant an exemption for the 2009-10 roll year for which the claimant had originally filed; however, the assessor did grant an exemption for the 2010-11 roll year, even though the claimant had not file for that roll year. Since the claimant did not file for the 2010-11 roll year, the property was not eligible for exemption.

Section 260 provides that if a claimant fails to follow the required procedure, the exemption is deemed to be waived for that year. The assessor is granting exemption on property not eligible for exemption.

Disabled Veterans' Exemption

The disabled veterans' exemption is authorized by article XIII, section 4(a) of the California Constitution. This constitutional provision, implemented by section 205.5, exempts a specified amount of the value of a dwelling when occupied as a principal place of residence by a qualified disabled veteran (or the veteran's unmarried surviving spouse). The property must be owned by the veteran, the veteran's spouse, or the veteran and the veteran's spouse jointly. The amount of exemption is \$100,000 or, for qualifying low-income veterans, \$150,000. Both of these amounts are adjusted annually by a cost of living index.

The disabled veterans' exemption at the \$100,000 basis requires a one-time filing, while the low-income exemption at the \$150,000 level requires annual filings to ensure the claimant continues to meet the household low-income restriction.

The following table sets forth disabled veterans' exemption data for recent years:

ROLL YEAR	DISABLED VETERANS' EXEMPTIONS	EXEMPTED VALUE
2010-11	166	\$17,297,873
2009-10	155	\$16,025,442
2008-09	149	\$15,272,486
2007-08	139	\$13,568,332
2006-07	132	\$12,035,896

In Madera County, the assessor uses the correct claim forms in his administration of the disabled veterans' exemption and requires the correct accompanying disability rating letter from the United States Department of Veterans Affairs (USDVA), as well as DD 214, *Certificate of Release or Discharge from Active Duty*, showing honorable discharge, and a marriage certificate if the claimant is not on title. We have no recommendations for this program.

ASSESSMENT OF REAL PROPERTY

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as property subject to California Land Conservation Act contracts, taxable possessory interests, and mineral property.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, except that it can be adjusted annually for inflation by a factor not to exceed 2 percent.

Change in Ownership

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of change in ownership for property tax purposes. Section 50 requires the assessor to enter a base year value on the roll for the lien date next succeeding the date of the change in ownership; a property's base year value is its fair market value on the date of change in ownership.

Discovery and Document Processing

The assessor's primary source of discovering properties that have changed ownership is through deeds and other documents recorded at the county recorder's office. The recorder's office requires BOE-502-A, *Preliminary Change of Ownership Report (PCOR)*, accompany documents submitted for recordation for the transfer of ownership of real property. PCORs are available at both the assessor's and recorder's offices, and on the assessor's website. A local ordinance requires the assessor's parcel number (APN) on all deeds.

The following table shows the total number of recorded documents received and the total number of reappraisable transfers in Madera County in recent years:

ROLL YEAR	RECORDED DOCUMENTS RECEIVED	REAPPRAISABLE TRANSFERS
2010-11	6,193	4,015
2009-10	6,943	4,888
2008-09	7,960	3,565
2007-08	N/A	3,892
2006-07	N/A	3,743

Using a list provided by the assessor, the recorder screens recorded documents to extract and forward the appropriate documents to the assessor. All recorded documents are coded by type and scanned into the assessor's computer system. PCORs are also scanned and merged with the correlating recorded document. Each morning, documents recorded the day before are printed and reviewed for completeness. The document numbers are confirmed, the sale price is verified against the documentary transfer tax noted on the deed, and the PCOR is attached to the document. If a PCOR is not provided or additional information is needed, the document is moved to a screening queue from which an assessment technician prepares and sends letters requesting the necessary information and decides if an exclusion claim should be sent to the property owner. In cases where a PCOR was not provided, the assessment technician sends BOE-502-AH, *Change in Ownership Statement (COS)*, to the property owner.

If follow up information is not required, or once requested information is returned, the documents are routed through the transfer section where the assessment technician concludes if the transfer resulted in a reappraisable event. Documents relating to commercial, industrial, or agricultural properties are reviewed by the appraisal staff to determine change in ownership issues. If the transfer is determined to be a reappraisable event, an appraisal worksheet is generated, and the scanned documents and PCORs are routed to the appropriate real property division to be assigned to an appraiser for valuation.

The assessor also discovers potential changes in ownership through change of address requests, field checks by appraisers, and correspondence from transferors, transferees, attorneys, or family members. For deaths occurring within the county, the discovery of potential changes in ownership is determined through a review of death records and communication with the county clerk or county health department. For changes in ownership resulting from the death of a property owner, the assessor properly uses the date of death as the event date.

We examined several recorded documents and found the assessor conducts a proper and thorough review for reappraisable transfers.

Leases

The assessor typically discovers lease transactions through recorded documents or returned business property statements. The chief appraiser initially receives and reviews all change in

ownership documents pertaining to long and short-term leases. The chief appraiser determines the commencement date and term of the lease. If the term plus options is less than 35 years, the chief appraiser makes note of the conditions of the lease in the computer system and routes the document to the commercial/industrial appraisers for informational purposes. Leases with terms plus options over 35 years are forwarded to an assessment technician to process, who then forwards the lease to an appraiser for valuation. Attempts are made to obtain copies of all long-term leases.

We reviewed several property records involving leases and found all assessments were properly handled in accordance with section 61(c).

Penalties

If a PCOR is not filed with a document at the time of recording, an assessment technician sends a COS to the property owner to obtain important transfer information. The cover letter instructs the property owner to return the completed COS within 30 days and that a penalty shall be added if the COS is not returned in a timely manner; however, the attached COS correctly notifies the property owner that they have 45 days (90 days effective 1/1/2012) from the date of the written request to return the completed COS before a penalty is applied.⁴ Assessment technicians use a log to track the dates COSs are mailed and they follow up to confirm receipt or non-receipt of a completed COS. The county board of supervisors has adopted an ordinance pursuant to section 483(b) allowing the assessor to automatically abate penalties.

We found one area where improvement is needed when processing penalties.

RECOMMENDATION 4: Apply penalties for failure to file a COS in accordance with section 482(a).

Our review of property records indicates that the assessor is not applying penalties when a property owner fails to return a COS as requested by the assessor.

At the time of our survey, section 482(a) provided that if a person or legal entity required to file a statement described in section 480 failed to do so within 45 days (90 days effective 1/1/2012) from the date of a written request by the assessor, a specific penalty would be applied.⁵ In addition, section 483(b) states that the penalty provided for in section 482(a) shall be abated if the assessee files the change in ownership statement with the assessor no later than 60 days after the date on which the assessee was notified of the penalty.

The information contained in a properly completed COS is important because it assists the assessor in making an accurate assessment of a property. The assessor's current practice of not applying penalties to property owners who fail to file a COS by the filing deadline is contrary to statute and could result in a loss of revenue.

⁴ Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends section 482(a) to allow property owners 90 days to return a completed COS when requested by the assessor before penalties are applicable.

⁵ Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends section 482(a) to allow property owners 90 days to return a completed COS when requested by the assessor before penalties are applicable.

Transfer Lists

Pursuant to section 408.1(a), the assessor shall maintain a list of transfers of any interest in property, other than an undivided interest, within the county, which have occurred within the preceding two-year period. Section 408.1(e) states the provisions of section 408.1(a) shall not apply to any county with a population under 50,000 people, as determined by the 1970 federal decennial census. Based on the population in Madera County in 1970, the assessor is not required to maintain a transfer list and has elected not to maintain one, but does provide one upon request.

Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership interest in a legal entity.

To assist assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property. On a monthly basis, LEOP transmits to each county assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported by the person or entity filing information with the BOE, LEOP advises assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting of legal entity changes in control under section 64(c) and changes in ownership under 64(d). A change in ownership statement must be filed with the BOE within 90 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. Section 482(b) provides for application of a penalty if a person or legal entity required to file a statement under 480.1 and 480.2 does not do so within 90 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE.⁶ The BOE advises county assessors of entities that are subject to penalty so they can impose the applicable penalty to the entity's real property.

Monthly LEOP reports from the BOE are reviewed by the assessor to determine the effective date and the change(s) that occurred. Staff in the cadastral mapping division identifies all real property held by the entity within the county by conducting a name search of the entity to discover any parcels affected by the change. In addition, staff conducts a name search on all other entities listed in the LEOP report by company name to determine if any of these properties

⁶ Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amends the filing requirement in section 482(b) from 45 days to 90 days for a person or legal entity to report a change in control or change in ownership, or to comply with a written request from the BOE, whichever occurs earlier.

may also be located in Madera County and under the same ownership. Once the real property parcels have been identified and the change in control or ownership has been determined to be a reappraisable event, the information is given to the appropriate real property division for valuation.

The assessor also discovers potential changes in control or ownership of legal entities through business property statements, newspapers, and building permits. We found the assessor processes LEOP notices properly, and promptly revalues parcels owned by entities having undergone a change in control or change in ownership. Our review of several records showed the assessor does a thorough job in reviewing the LEOP reports and in reassessing all property interests identified on BOE-100-B. In recent years, the assessor has not discovered any late BOE-100-B filings; however, if a late filing is discovered, the assessor's policy is to impose the appropriate penalty.

Change in Ownership Exclusions – Section 63.1

Section 63.1 generally excludes from the definition of "change in ownership" the purchase or transfer of principal residences and the first \$1 million of other real property between parents and children. Section 63.1 also excludes qualifying purchases or transfers from grandparents to their grandchildren.

To enforce the \$1 million limit for property other than principal residences, the BOE maintains a database that lists transfers of such property statewide. To further the state and local interests served by tracking these transfers, section 63.1 encourages county assessors to report such transfers to the BOE on a quarterly basis. The quarterly reporting, which was formerly mandatory, is now optional. Even if an assessor opts not to report quarterly to the BOE, however, the assessor must track such transfers internally to be in compliance with section 63.1.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have exceeded their \$1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

The following table represents section 63.1 claims filed with the assessor in recent years:

ROLL YEAR	SECTION 63.1 CLAIMS
2010-11	118
2009-10	236
2008-09	316
2007-08	411
2006-07	362

Fluctuation in the number of claims over the past few years may be a result of changing market conditions. In recent years, there are many instances in which the current market value of a property is lower than the factored base year value to be transferred and, therefore, it is not

advantageous to file a claim. The assessor is proactive regarding public awareness of potential change in ownership exclusions; applications and information regarding exclusions are available at the assessor's office and on the assessor's website. If a PCOR or COS indicates a transfer may be between a parent(s) and child(ren) or from grandparent(s) to grandchild(ren) and a claim form was not submitted, an assessment technician will send a claim form and cover letter to the taxpayer advising of a possible exclusion from reassessment. The assessment technician holds transfer documents until information is received from the property owner or until 30 days have elapsed. Assessment technicians review all section 63.1 applications and determine if the property owner may be eligible for exclusion. Once a claim form is received or the time has elapsed, the information is sent to the appropriate real property division to apply the exclusion or reappraise the property. The property owner is notified in writing if a claim is denied.

The assessor submits optional quarterly reports to the BOE listing approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. When the assessor receives a *Report of Transferors Exceeding \$1,000,000* from the BOE, the chief appraiser ensures the dates are correct, reviews the total value of transfers, disallows exclusions made after the limit has been exceeded, and notifies appraisers of any reappraisable percentage. If necessary, contact is made with other counties to determine which property to exclude and which to reappraise.

Pursuant to section 63.1(i), to protect property owner confidentiality, claim forms are kept in file cabinets away from public access. We reviewed several accepted and denied section 63.1 claim forms and found them to be properly processed.

Change in Ownership Exclusions – Section 69.5

Section 69.5 generally allows persons 55 years of age or older, or who are severely and permanently disabled, to transfer the base year value of a principal residence to a replacement residence of equal or lesser value located within the same county. A county board of supervisors may provide by ordinance that base year values may be transferred from properties located outside the county.

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

The following table represents section 69.5 claims filed in recent years:

ROLL YEAR	SECTION 69.5 CLAIMS
2010-11	4
2009-10	7
2008-09	6
2007-08	4
2006-07	20

Section 69.5 information and applications are available to the public at the assessor's office and on the assessor's website. If a PCOR indicates a transfer may involve a base year value exclusion, the process of notifying the property owner is similar to section 63.1 claims. Madera County does not accept base year value transfers from other counties.

Submitted claim forms are routed to the appropriate appraiser, who determines the fair market value of both the replacement and original properties, compares the values, and determines if the section 69.5 claim will be granted. The property owner is notified in writing if a claim is denied.

The assessor submits required quarterly reports to the BOE listing approved section 69.5 exclusions. The *Duplicate SSN Report* from the BOE is reviewed to determine if any claims are duplicated within the county, have been made previously in another county, or have been filed and qualify for a second section 69.5 exclusion due to a severe and permanent disability.

In compliance with section 69.5(n), claim forms are kept in file cabinets away from public access to ensure the confidentiality of taxpayer information.

We reviewed several accepted and denied section 69.5 claim forms and found them to be properly processed.

Valuation

Once a transfer has been determined to be a reappraisable event, the pertinent information is sent to an appraiser for valuation. Every reappraisable transfer is reviewed to confirm the listed sale price accurately reflects market value. The sale price is not automatically enrolled and may be overridden when data is available to show that the reported sale price is higher or lower than current market value.

In Madera County, the assessor's real property appraisal staff is organized into three divisions: the agricultural, residential, and commercial/industrial divisions. An in-house database of residential and commercial sales data is kept in the assessor's computer system and is periodically updated. Residential changes in ownership are typically valued using the comparable sales approach or cost approach, and the income approach is also considered when valuing commercial/industrial properties. For partial interest transfers, the partial interest being transferred is valued at market value and added to the factored base year value of the non-reassessable portion. The partial interest is given a separate base year value and the correct

inflation factor is applied. We found market value conclusions are well documented on the appraisal record and supporting documents are placed in the file. Due to staff reductions, field inspections are conducted at the appraiser's discretion and judgment.

Our review of several files indicates the assessor properly values most changes in ownership and correctly processes supplemental assessments. However, we recognized an area in need of improvement.

RECOMMENDATION 5: Reassess all properties having undergone a change in ownership due to a foreclosure.

We discovered files involving foreclosed properties that were not reassessed at the time of foreclosure. The assessor's records indicate that these types of transfers are non-reappraisable events according to office policy and are not coded for reappraisal. The property records were updated to reflect the new ownership, but the enrolled value remained the same until the subsequent transfer after the foreclosure. The assessor indicated that this is due to the large number of foreclosures in the county and the quick subsequent sales of such properties. It is the assessor's policy not to revalue changes in ownership due to a foreclosure, since many of these properties were valued for a decline in value at the prior lien date.

According to Assessors' Handbook Section 401, *Changes in Ownership* (AH 401), a foreclosure is a procedure by which the beneficiary of a deed of trust or other promissory note elects to sell the property if the buyer defaults on the terms of the note. Common foreclosure actions include the following:

- A deed of trust may be foreclosed by the trustee's sale of the property. If a property is sold at a trustee's sale, a change in ownership occurs on the date the right of possession vests in a new purchaser.
- A mortgage or deed of trust may be foreclosed by judicial action. Judicial foreclosures involve a redemption period. A change in ownership occurs after the period of redemption has passed and the property has not been redeemed, or upon redemption when title vests in the original debtor's successor in interest.
- The trustor (property owner who is obligated on the loan) under a deed of trust may transfer title to the property to the lender in lieu of the lender undertaking the foreclosure action. If a property owner transfers title to the lender in lieu of a foreclosure action, the transfer is a change in ownership, and the date of the transfer is the date of the change in ownership.

By not reassessing properties identified as having undergone a change in ownership due to foreclosure, the assessor is not following applicable statutes, and is not accurately tracking base year values or issuing applicable supplemental assessments. The assessor's policy may result in overassessments or underassessments of these properties.

Improvement Bonds

Improvement bonds are instruments used to finance construction of public improvements, including sewers, sidewalks, lighting, and water lines. Such public improvements generally enhance the land value of privately owned real property. Land directly benefiting from such

improvements is pledged as security for payment of the construction loan. The improvement bond is a lien that runs with the land and binds the owner and all successors in interest in accordance with the 1911 or 1915 Bond Acts.

Section 110(b) provides a rebuttable presumption that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration paid for a property exclusive of the lien amount. The assessor can overcome this presumption by a preponderance of evidence that all or a portion of the value of those improvements is not reflected in that consideration. In accordance with section 163, entities receiving revenue derived from payments created by an improvement bond annually notify the assessor of required statistics. It is the assessor's policy not to add any amount for improvement bonds unless market evidence indicates otherwise. This is consistent with the requirements of section 110(b).

New Construction

Section 70 defines newly constructed property, or new construction, as (1) any addition to real property since the last lien date, or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and the Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c) and (d), and sections 73 through 74.7 address these exclusions.

Discovery

Most new construction activity is discovered by reviewing building permits. Currently, the assessor receives building permits from four permit-issuing agencies: the Madera County Engineering and General Services Department, the County of Madera Environmental Health Department, the City of Madera Building Department, and the City of Chowchilla Building Department.

The following table shows the number of building permits received and the number of assessable new construction that resulted from the building permits over recent years:

ROLL YEAR	PERMITS RECEIVED	ASSESSABLE NEW CONSTRUCTION
2010-11	1,259	387
2009-10	2,608	604
2008-09	3,263	1,052
2007-08	4,164	2,319
2006-07	4,865	1,433

Other methods used to discover new construction include newspaper articles, business property statements, and field canvassing. The Madera County Engineering and General Services Department is a division of the Madera County Resource Management Agency (RMA) and is the issuing agency for building, septic, well, encroachment, and grading permits in unincorporated areas. The Madera County Environmental Health Department is also a division of RMA and issues well and septic permits, as well as conducts inspections. The RMA provides the assessor with copies of signed-off permits and certificates of occupancy.

Valuation

All incoming permits and plans from the cities of Madera and Chowchilla are physically transferred monthly from the permitting agencies to the assessor. Plans and permits for assessable new construction from these agencies are electronically scanned into the imaging portion of the assessment system and tracked through completion of the permitted construction.

The RMA electronically transfers all county-issued permits and approved plans to the assessor; assessment technicians review all incoming permits. Permits for non-assessable new construction are culled and permits for assessable new construction are tracked through completion in the assessment system. If an assessment technician is unsure whether a permit is for assessable new construction, then an appraiser will make the determination. Building plans received with building permits are entered in the assessor's electronic database and are revised as needed after field inspections. With the exception of wells and septic systems, field inspections are conducted for all completed new construction.

Questionnaires are mailed to property owners when appraisers determine additional information would assist in the valuation process. Upon notification of the final inspection, the completion date is noted in the assessment system. The appraisers determine a base year value for the completed new construction and initiate a supplemental assessment worksheet, which is forwarded to an assessment technician for data entry and processing. New construction, as an additional component to existing improvements, is valued using cost guides. Newly completed residences or commercial buildings may be valued using cost guides, but strong consideration is also given to the comparable sales approach to accommodate for entrepreneurial costs, as well as in consideration of recently depressed market conditions. Unpermitted or escaped new construction is discovered by field canvassing and aerial photo reviews, and is valued as of the

determined date of completion. The assessor properly assesses well bores and well casings to the land.

We found several areas in need of improvement when assessing new construction.

RECOMMENDATION 6: Improve the new construction assessment program by: (1) revaluing all construction in progress (CIP) at market value on each lien date, (2) using current market indicators when developing a cost approach to value new construction, and (3) substantiating new construction discounts on swimming pools.

Revalue all construction in progress (CIP) at market value on each lien date.

Upon our review of new construction activity, we found several files where the assessor correctly enrolled current market value for CIP as of the 2009 lien date; however, the assessor did not revalue the CIP at market value for the subsequent lien date. The parcels in question were not reviewed for any additional construction made subsequent to the 2009 lien date, and no changes were made to the enrolled values except to apply the inflation factor for the 2010 lien date, even though the construction was not complete.

Section 71 requires the assessor to appraise CIP at its full value on each lien date until the date of completion. Once completed, the entire portion of property which is newly constructed shall be reappraised at its full value. In addition, section 51(a) provides that the inflation factor is to be applied to the base year value. Section 75.8 defines the base year value as the full cash value of property on the date it changes ownership or the date new construction is completed. The base year value cannot be established until the construction is completed. It is improper to apply the inflation factor to CIP.

The assessor's practice is contrary to statute and may result in incorrect assessments.

Use current market indicators when developing a cost approach to value new construction.

We found the assessor is using incorrect unit costs for residential new construction. In 1996, the assessor conducted an analysis of the unit costs in Assessors' Handbook Section 531, *Residential Building Costs* (AH 531). The purpose of this study was to develop annual lien date factors or time adjustment multipliers for various categories or classifications of residential construction representing the changes between more recently published AH 531s and the 1996 AH 531. These annual factors were entered into the assessment system and used as a multiplier against the 1996 AH 531 cost factors forming the basis for unit cost calculations of residential new construction for subsequent lien dates. The assessor discontinued this study and the calculation of the adjustment factor in 2005. For the past five years the assessor has continued to use the same in-house unit cost factors (without adjustment) established in 2005 when enrolling full value for construction in progress or completed new construction. In our review of county records, we found a range (of unit costs per square foot used by the assessor) from -7.27 percent to 8.26 percent from AH 531 cost per square foot for years 2008, 2009, and 2010.

The unit costs in annually published cost guides are developed based on the most recent market conditions. For the cost approach, the assessor should use the current version of recognized cost guides. If the assessor believes the cost guides do not adequately reflect the value of new construction in Madera County, he should update his study to determine what the annual factors should be.

By using an outdated in-house study to adjust unit costs found in published cost guides used to value new construction, the assessor may be enrolling inaccurate assessments.

Substantiate new construction discounts on swimming pools.

The assessor documents the time line of construction in progress and costs for swimming pools. Upon completion, the total estimated cost of the swimming pool is determined and the assessor enrolls 50 percent of this cost as the full market value of the new swimming pool. The assessor has no statistical basis or market study to justify such a reduction in cost when determining the value of new swimming pools. Adjustments to estimated total costs should be supported by recent documented market evidence or a cost study. Enrolling discounted new construction values for swimming pools without supporting documentation may cause the assessor to enroll inaccurate assessments.

Declines in Value

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the assessor must enroll the FBYV.

In response to an increase in the number of taxpayers who filed assessment appeals for the 2008-09 assessment roll, the assessor became proactive in reviewing residential properties in the county for possible declines in value as of the 2009-10 assessment roll. To assist in identifying such properties, the assessor and his staff developed a computer-assisted review program.

The following table shows the number of decline-in-value assessments for recent years:

ROLL YEAR	DECLINE-IN-VALUE ASSESSMENTS
2010-11	18,298
2009-10	19,983
2008-09	14,615
2007-08	101
2006-07	121

Taxpayers may request a review of their assessment by completing and submitting a request for review form that is available on the assessor's website and at the assessor's office. If so requested, the assessor will mail the request for review form to the taxpayer to complete and

return. The final filing date for requesting a value review for the current assessment roll is November 30, which also coincides with the final date to file an assessment appeal. Applicants filing an informal request for review near the final filing date are advised to file an assessment appeal as well in case the assessor cannot complete the review before the appeals filing deadline. Taxpayers filing the informal request for review are notified of the results by letter.

In developing the program for decline-in-value reviews, the assessor identified eight distinct appraisal communities in the county in order to isolate areas of commonality among properties, such as location. Residential properties located in each of these communities were considered to be affected by common economic factors that would have an impact on their market value.

For the 2009-10 roll year, the assessor used their program to extract sales, excluding sales that were not considered arms length transactions, such as short sales and foreclosures, from the residential sales database spanning the past ten years. The assessor then plotted each sale price by month onto a chart and calculated the median sale price for each month for each of the eight appraisal communities. The computer program then compared the monthly median to the median for the current lien date and calculated the monthly percentage change. The monthly factors were reviewed by the assessor to see if there were any anomalies in the adjustment factors before they were accepted as appropriate base year value adjustment factors.

For the 2009-10 roll year, the review period was determined to be from January 1, 2004 to January 1, 2009. Within that period, the assessor identified all parcels that experienced any of the following reappraisable events:

- 1) Change in ownership.
- 2) Change in ownership with subsequent new construction.
- 3) New construction.
- 4) Existing decline-in-value assessment.

Parcels having any of these four reappraisable events established the pool of properties to be reviewed for a possible decline-in-value assessment.

The assessor's program then applies the adjustment factors for each month to the corresponding base year value of these properties to establish an indicated market value for each property as of the current lien date. For the 2009-10 roll year, all of the resulting valuations were integrated onto worksheets in the assessment system to be manually reviewed by the appraisers. The appraisers compared the computer-generated value to current market data taken from the assessor's sales database and to the FBV. Based on the review, the appraiser would accept the computer-generated value, override the computer-generated value, or deny a reduction in value. We reviewed a number of decline-in-value assessments and found the values enrolled were supported by market evidence and the records were adequately documented.

The process was repeated for the 2010-11 roll year; however, due to further declines in value, the data and resulting curve of median sale prices indicated that the period for review was from January 1, 2000 to January 1, 2010. Properties with existing decline-in-value assessments were automatically declined by the calculated percentage change and enrolled by the assessor's decline-in-value program. Newly discovered decline-in-value properties were reviewed by the

appropriate appraiser to accept, override, or reject the value indicated by the assessor's decline-in-value program.

For properties qualifying for a decline-in-value assessment and enrolled during the normal roll processing period, a notice entitled *Notification of 2010-2011 Assessed Value Change* was mailed to the property owner. The following information was included on this notice:

- 1) The FBYV.
- 2) The proposed decline-in-value assessment.
- 3) Information on filing an assessment appeal.

For properties given a decline-in-value assessment outside of the normal roll processing period, an assessment roll change was processed and a *Notice of Correction to the Section 601 Assessment Roll* was mailed to the property owner. The following information was included on this notice:

- 1) The FBYV.
- 2) The proposed decline-in-value assessment.
- 3) The net change in value.
- 4) Information on filing an assessment appeal.

Properties given a decline-in-value assessment are identified in the assessment system with a taxability code of "800." Once an assessment is identified as being in decline-in-value status, the application of the annual inflationary factor is suspended until the FBYV is restored.

Commercial Properties

The assessor does not have a program similar to the residential property program to identify declines in value for commercial properties. The only commercial properties the assessor reviews for potential declines in value are those commercial properties where the taxpayer has filed an informal request for review or has filed an assessment appeal. When the assessor receives an informal request for review, a letter is sent to the taxpayer requesting documentation, such as income and expense information or comparable sales data. This information is used to assist the assessor in determining the current market value of the property in question.

In reviewing commercial properties for declines in value, whenever possible, the assessor uses all three approaches to value (cost, income, and comparable sales) to determine the current market value of the subject property. The resulting estimated market value is compared to the FBYV, and the lower of the two values is enrolled as the assessed value for the current roll.

The assessor notifies property owners of the results of the review by mail using a form letter with two boxes; one box is checked if a reduction is warranted and the other box is checked if a reduction is not warranted. For properties receiving a reduction, the letter also provides the FBYV, the proposed new value, and information on filing for an assessment appeal.

Overall, the assessor has an effective program in place to recognize and assess those properties that may warrant a decline-in-value assessment. We have no recommendations for this program.

California Land Conservation Act Property

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based upon agricultural income-producing ability (including income derived from compatible uses, for example, hunting rights and communications facilities). Although such lands must be assessed at the lowest of the restricted value, current market value, or factored base year value, the restricted value typically is the lowest.

Sections 421 through 430.5 prescribe the method of assessment for land subject to agricultural preserve contracts. Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), provides guidance for the appraisal of these properties.

For the 2010-11 roll year, Madera County had 4,293 parcels encumbered by CLCA or other Open Space contracts, encompassing approximately 555,000 acres. The total assessed value for land and improvements of CLCA properties was \$1,273,949,642. Included in these statistics are 766 parcels totaling approximately 73,000 acres that are under Farmland Security Zone (FSZ) contracts; the total assessed value for land and improvements of these properties was \$63,672,724. Madera County has 298 parcels (representing 125 contracts) in nonrenewal status. There have been no contracts cancelled since our prior survey. Most of the agricultural property in Madera County consists of grapes, almonds, milk, pistachios, and cattle.

Valuation of CLCA Property

The valuation of CLCA property in Madera County, including associated changes in ownership and new construction, is the responsibility of one supervising appraiser and three real property appraisers. The CLCA assessment program is computerized, including the annual recalculation of nonrenewal values and the annual comparison between current restricted values, factored base year values, and current market values. The assessor compares the total restricted value of the appraisal unit to the factored base year value of the same unit and the current market value as if unrestricted. The current market value is rarely the lowest value indicator and is presumed to set the upper limit of value.

The assessor correctly establishes a separate base year value for homesites based on the date the entire property was acquired. The assessor also establishes a separate base year value for the improvements based on the date the new construction was completed, and correctly issues supplemental assessments.

Market land rents in the county are updated after an extensive analysis of rental and expense data from agricultural questionnaires, information from the county's annual Crop Report, and information from surrounding counties. We also found the assessor sends a list of living improvements as an attachment to the annual income/production questionnaires, so the owner

can verify items such as the acreage, variety, and year of planting of the various permanent crops on a given farm. This practice, recently initiated by the assessor, allows staff to easily identify plantings and removals that have taken place since the previous year.

In developing the capitalization rate used in the valuation process for CLCA properties, the assessor includes the BOE supplied interest component, a risk component, and a property tax component. The property tax component used is specific to the property's location.

In our review of the Madera County CLCA program, we noted a number of positive practices. We found the assessor uses an inclining-stable-declining income stream shape for living improvements, values properties in nonrenewal status correctly, and has staff in the agricultural division do extensive research to determine appropriate income and expense rates. We found that the CLCA assessment program is well managed.

Taxable Possessory Interests

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly-owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

The assessor enrolled 332 taxable possessory interests on properties owned by 30 different government entities in Madera County for the 2010-11 roll year. Examples of taxable possessory interests being assessed in the county are private users of hangars at public airports, summer cabins on United States Forest Service lands, employee housing, cable television franchises, and concessionaires at the county fairgrounds. Taxable possessory interests are identified on the assessment roll by an assessment number with an "860" prefix. The parent fee parcel for these "860" assessments is also noted on the assessor's inquiry screen on the assessment system. For the 2010-11 roll year, the chief appraiser was responsible for the assessment of all taxable possessory interests in the county. In years past, the task of assessing taxable possessory interests was given to a number of appraisers.

To assist in the discovery of taxable possessory interests that are newly created, terminated, or have changed ownership, the chief appraiser annually mails BOE-502-P, *Possessory Interests Annual Usage Report*, to all government entities that own property in the county. In addition to BOE-502-P, the chief appraiser sends requests for information under the Federal Freedom of Information Act.

For taxable possessory interests with a stated term as indicated on a contract or special use permit, the assessor establishes the initial assessed value based on the contract or stated term of possession. For subsequent years, these interests are valued using a declining term (the remaining term), in accordance with Rule 21. For contract terms of one year, the chief appraiser uses one year as the stated term of possession. These taxable possessory interests are revalued annually using a one-year term of possession. For month-to-month taxable possessory interests, the chief appraiser determines an anticipated term of possession based on a history of usage. The

chief appraiser has developed a number of spreadsheets to assist in tracking the various terms of possession and for annual valuation of taxable possessory interests.

The majority of taxable possessory interests are valued using the indirect income method. We reviewed a number of taxable possessory interest assessments where the assessor used this method. To arrive at the value of these taxable possessory interests, the assessor calculated the net income to the interest as though it were the fee simple interest in the property, deducted any operating expenses incurred by the government owner, and determined the reversionary value of the land and improvements to be deducted from the fee value.

We also reviewed a number of taxable possessory interests where the assessor used the direct income method. For these taxable possessory interests, the assessor estimated the gross income using economic rents, deducted any operating expenses incurred by the government owner, and discounted the net income to present value using an appropriate discount rate based on the remaining term of possession.

In our review of the taxable possessory interest program, we found a number of areas of concern.

RECOMMENDATION 7: Improve the taxable possessory interest program by:
(1) exempting all qualifying low-value taxable possessory interests, (2) reappraising changes in ownership of taxable possessory interests in accordance with section 61(b), (3) not assessing a taxable possessory interest to a public user of public lands, (4) excluding newly created taxable possessory interests established by month-to-month agreements from supplemental assessments in accordance with section 75.5(b), and (5) issuing supplemental assessments upon the renewal or creation of a taxable possessory interest.

Exempt all qualifying low-value taxable possessory interests.

Even though the county has a number of taxable possessory interests that may qualify for the low-value property exemption, it is the assessor's policy to enroll all taxable possessory interests regardless of their value. The assessor leaves the decision to cancel the resulting tax bill to the tax collector if it is \$20 or less.

As of January 1, 2010, Resolution No. 98-86 was in effect, exempting from taxation all temporary and transitory possessory interests held at a publicly owned fairground, fairground facility, convention facility, or cultural facility, as defined in section 155.20, having a total base year value or full value of \$50,000 or less. On May 11, 2010, the board of supervisors adopted Ordinance No. 646, enacting the provisions of section 155.20, exempting all real property with a base year value, and personal property with a full value, that is so low that the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessment and collection. Effective January 1, 2011, section 155.20(b)(1) provides that a county board of supervisors shall have no authority to exempt property with a total base year value, as

adjusted by an annual inflation factor pursuant to section 110.1(f), or full value, of more than \$10,000, or more than \$50,000 in the case of certain taxable possessory interests.

The assessor's practice fails to comply with the board of supervisor's decision to implement the provisions of section 155.20.

Reappraise changes in ownership of taxable possessory interests in accordance with section 61(b).

We found the assessor has not assessed taxable possessory interests of cable television providers for a change in ownership upon the application and issuance of a state franchise by the California Public Utilities Commission.

Under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), all persons or corporations that wish to provide cable or video services after January 1, 2008, must, in exchange for a franchise fee, obtain a state franchise if they do not already have one. Therefore, local cable television operators who have an existing local franchise are required to obtain a state franchise when an existing franchise expires; they also have the option of obtaining a state franchise prior to the expiration date of an existing franchise under certain circumstances. Obtaining a state franchise simultaneously terminates any existing taxable possessory interest and creates a new one.

Section 61(b) provides that a change in ownership, as defined in section 60, includes, but is not limited to, the creation, renewal, extension, or assignment of a taxable possessory interest in tax exempt real property for any term. Therefore, the assessor should have revalued these interests for a change in ownership upon the issuance of the state franchise.

Do not assess a taxable possessory interest to a public user of public lands.

In our review of taxable possessory interests in Madera County, we found that the assessor was assessing a taxable possessory interest to a local government entity that was leasing land owned by the United States Forest Service.

Typically, property owned by local government agencies located within their jurisdiction is exempt from property taxes. Property owned outside of those boundaries may be taxable under article XIII, section 11 of the California Constitution, which provides that lands, water rights, and any other interests in lands owned by a local government that are located outside its boundaries are taxable if they were taxable when acquired by the local government. Therefore, only real property *owned* by local government agencies may be subject to property taxation.

Possession of a possessory interest is typically encumbered by a contractual agreement for a specific period of time; therefore, the possessor of a possessory interest has a leasehold interest in the real estate, and not fee ownership of the real property. In addition, Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), defines a taxable possessory interest as the taxable interest held by a *private possessor* in publicly owned real property.

By continuing to assess these possessory interests, the assessor is incorrectly applying a taxable value to property that should be tax exempt.

Exclude newly created taxable possessory interests established by month-to-month agreements from supplemental assessments in accordance with section 75.5(b).

We reviewed a number of taxable possessory interests that were created by month-to-month agreements that had a full cash value of \$50,000 or less. In assessing these interests, the assessor assigned a reasonably anticipated term of possession based on historical usage for the particular property type. In addition, upon their creation as a taxable possessory interest, the assessor calculated the assessed value, established a base year and base year value, and issued a supplemental assessment.

Section 75.5(b), excludes from supplemental assessment, a newly created taxable possessory interest that is established by a month-to-month agreement and has a full cash value of \$50,000 or less.

The assessor's practice is contrary to statutory provisions.

Issue supplemental assessments upon the renewal or creation of a taxable possessory interest.

We reviewed a number of taxable possessory interests created by an agreement between the public owner and private user for a stated term of possession. The assessor correctly assessed these taxable possessory interests using the stated term of possession. However, the assessor is not consistently issuing a supplemental assessment upon a renewal or creation of these taxable possessory interests. The assessor is issuing supplemental assessments for some changes in ownership, but not for others.

Section 75.5 provides that manufactured homes subject to taxation under Part 13 (commencing with Section 5800) and real property, other than the following, are subject to supplemental assessment:

- (a) Fixtures that are normally valued as a separate appraisal unit from a structure.
- (b) Newly created taxable possessory interests, established by month-to-month agreements in publicly owned real property, having a full cash value of fifty thousand dollars (\$50,000) or less.

Therefore, taxable possessory interests with a stated term of possession are subject to supplemental assessment. The assessor's practice of inconsistently issuing supplemental assessments upon renewal or creation of a taxable possessory interest may result in a loss of revenue and unequal treatment of taxpayers.

Mineral Property

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.

Petroleum Property

There are several gas wells in Madera County. A supervising appraiser appraises these properties for assessment purposes. The value of petroleum property in Madera County is \$12.8 million. Natural gas in Madera County represents 0.73 percent of California's total gas production.

RECOMMENDATION 8: Use reserves indicated by current market data for the valuation of petroleum property.

Mineral rights are a taxable interest in real property in California. Petroleum reserves are the proxy by which an assessor determines the value of the mineral rights. Reserves are estimated and expected future cash flows from the reserves are discounted to estimate the value of the subject property. Petroleum properties are subject to the restrictions of California Constitution article XIII A like most other types of real property. The base year values of mineral properties are adjusted annually based on changes in reserves. These adjustments rely on current market value data, particularly the adjustments for new reserves and for depletion. Because mineral rights are a depleting asset, annual adjustments must be made to base year values to reflect the declining nature of the value. In addition, changes in expected physical and economic operating conditions can cause changes in the reserves.

The assessor's petroleum valuation worksheets use reserves reported by the taxpayer, rather than reserves as indicated by the assessor's discounted cash flow (DCF) analysis, for calculations regarding new reserves and adjustment for depletion. This procedure is incorrect. The assessor should be using the reserves indicated by the DCF analysis as prescribed by Rule 468(c)(4)(A). Failure to use this reserve estimate disconnects the value estimate from the current conditions and leads to incorrect base year value adjustments. This can result in an improper determination of the value to be enrolled, that is, the current market value or the adjusted base year value. From the review of the assessor's worksheets, there does not appear to be any bias for the improper application of the reserves estimated for the adjustments. In some cases, taxpayer reserves were below that indicated by the assessor's DCF analysis and others show reserves above the DCF indication.

Assessors are not required to use taxpayer estimates of reserves in their analysis. This information is provided as a convenience to assist assessors in the valuation process. Reserve estimates are highly influenced by the assumptions that are made regarding commodity prices, expenses, and production estimates. The assumptions made by the taxpayer for the taxpayer's estimate of reserves may not be reflective of the assessor's requirements for valuation purposes, though any differences should be explainable by the appraiser.

Mining Property

Madera County has very few mining operations. Many former sand and gravel extraction operations have been closed and material is now imported from outside the county. The locations of some of the former operations are being used for processing recycled aggregate material.

We found one area regarding mining properties where improvement is needed.

RECOMMENDATION 9: Revise mineral appraisal procedures to properly identify and assess mineral rights value.

One mining operation that is still active is a granite quarry. Business property statements are regularly filed for this property and the assessor has been processing the statements and issuing assessments. However, notes in the appraisal record dating from 1983 indicate that the appraisal staff was instructed to drop the mineral rights value from the appraisal. Discussions with current assessor's staff could not resolve whether the mineral rights value for this property was ever removed and, if so, whether or not the mineral rights value had been assessed to another parcel created solely for that purpose. Section 104 defines mineral rights as assessable real property interests.

No production reports could be found that had been filed by the taxpayer for the last several years. Further, there is no indication of a determination of the current market value of the quarry or that any efforts have been made to determine the adjustment to the base year value to account for depletion of reserves. There has been no change in ownership on this property and it appears that whatever land value is attributable to this property has been annually indexed. Rule 469(e) details the procedures that should be followed when assessing producing mining properties.

Failure to properly identify and enroll assessable mineral interests results in property escaping assessment and a possible loss of revenue.

ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

In this section of the survey report, we review the assessor's programs for conducting audits, processing business property statements, as well as assessing business equipment, manufactured homes, aircraft, and vessels.

Audit Program

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

Prior to January 1, 2009, section 469 required county assessors to audit at least once every four years the books and records of any taxpayer engaged in a profession, trade, or business if the taxpayer had assessable trade fixtures and business tangible personal property valued at \$400,000 or more. These statutorily required audits are commonly referred to as mandatory audits. Additionally, a county assessor may audit the books and records of taxpayers with holdings below \$400,000 in value under the authority of section 470. These audits are referred to as nonmandatory audits. Generally, county assessors perform both mandatory and nonmandatory audits to ensure that their audit program includes a representative sample of all sizes and types of property taxpayers with personal property holdings subject to the property tax.

Effective January 1, 2009, county assessors are no longer required to audit all taxpayers with trade fixture and business tangible personal property holdings of \$400,000 or more at least once every four years. Instead, the county assessor is required to annually audit a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments. Thus, while section 469 still mandates a certain level of audits that must be performed annually, assessors now have some flexibility in determining which accounts will comprise this mandated workload.

During our survey, audit responsibility in Madera County rested upon two full-time auditor-appraisers under the direction of a supervising auditor-appraiser. The assessor and his

staff continue to participate in the California Counties Cooperative Audit Services Exchange (CCCASE) and, in that capacity, will complete ten audits on behalf of various counties in 2011.

As noted previously, effective January 1, 2009, section 469 specifies a minimum audit workload equal to 75 percent of a statutorily defined base level. Rule 192 prescribes the computation establishing minimum required audit production and provides the basis for the audit selection process. According to Letter To Assessors No. 2009/049, the amended statute requires the assessor to complete 28 audits per year hereafter. The assessor completed 41 audits for the 2009-10 fiscal year and, as of February 2011, the assessor had completed 33 audits for the 2010-11 fiscal year. Given recent audit production levels, the assessor has exceeded the minimum number of audits threshold as defined by section 469. Furthermore, we reviewed and tested the assessor's audit selection methodology and found the audits for the highest valued accounts are being properly identified and worked. Additionally, the assessor has implemented a new program that values asset changes per audit year and yields a report detailing the differences.

Statute of Limitations

Section 532 provides that when the assessor discovers through an audit that property has escaped assessment, an assessment of such property must be enrolled within four years after July 1 of the assessment year during which the property escaped assessment. If the assessor cannot complete an audit within the prescribed-time period, the assessor may request, pursuant to section 532.1, a waiver of the statute of limitations from the taxpayer to extend the time for making an assessment.

The assessor requests signed waivers of the statute of limitations from each of the taxpayers scheduled for an audit at the beginning of every audit season. This helps to ensure the statute of limitations does not expire for any business property scheduled for an audit in a particular year should the assessor be unable to complete the scheduled audit workload. As an additional precaution, the assessor first schedules the audits of those taxpayers who refuse to sign a waiver. This policy appears to be an effective and proactive approach to managing audit production under the umbrella of limited resources.

Audit Quality

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

We sampled several recently completed audits and found that in all cases audit determinations were accurate, well documented, and supported by a comprehensive audit checklist defining the areas of investigation. We found the assessor performs change in control or ownership reviews, verifies leased equipment, accounts for supplies, and properly classifies equipment during the

audit process. Audit quality is further enhanced by a standardized review process, where every audit completed is reviewed by the supervising auditor-appraiser. Lastly, we reviewed the assessor's processing of roll corrections upon completion of an audit. We found that when correcting for multiple-year audit findings, the assessor is enrolling roll corrections for each year in which the escape assessment took place pursuant to section 531. However, there is a problem with the way the assessor notifies taxpayers of his intent to enroll escaped assessments discovered during the audit process.

RECOMMENDATION 10: Send a *Notice of Enrollment of Escape Assessment* as required by section 534.

The assessor does not properly notify taxpayers when enrolling an escape assessment and fails to allow the statutorily required minimum of ten days to elapse between notifying the assessee of the proposed escape assessment and the enrollment of the assessment. The only notice taxpayers receive from the assessor related to escape assessments is the *Notice of Proposed Escape Assessment*. An attached addendum to the *Notice of Proposed Escape Assessment* informs the recipient of their right to request a hearing before the assessment appeals board. It further states the appeal application must be filed within 60 days from the date of the proposed escape assessment letter. Subsequently, the property tax bill further states that appeals may be filed between July 2 and November 30. Appeal language specific to the enrollment of escaped assessments is not indicated on the tax bill.

Before an escape assessment can be enrolled, taxpayers must first receive a *Notice of Proposed Escape Assessment*. According to section 531.8, no escape assessment shall be enrolled before ten days after the assessor has mailed or otherwise delivered to the affected taxpayer a *Notice of Proposed Escape Assessment*. The notice must contain (1) the heading "NOTICE OF PROPOSED ESCAPE ASSESSMENT" prominently displayed, (2) the amount of the proposed escape assessment for each tax year involved, and (3) the telephone number of the assessor's office to allow the taxpayer to contact the office regarding the proposed escape assessment.

Once the minimum ten-day delay period prior to enrollment of the escape assessment has passed, the assessor may enroll the escape assessment. However, section 534 states that no assessment shall be effective until the assessee has been notified of the escape assessment personally or by mail. The notice of enrollment must include the following information: (1) the date of mailing, (2) information regarding the assessee's right to an informal review and the right to appeal the assessment, and (3) that the assessment appeal must be filed within 60 days of the date of mailing printed on the notice or the postmark date, whichever is later. Section 534(d)(2) expressly provides that the *Notice of Proposed Escape Assessment* required by section 531.8 does not satisfy the notice requirements of section 534.

The assessor's practice of not sending a *Notice of Enrollment of Escape Assessment* as required by section 534 does not adequately inform taxpayers of the right to an informal review of the escape assessment and the right to file an appeal contesting the escape assessment.

Business Property Statement Program

Section 441 requires that each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more annually file a business property statement (BPS) with the assessor; other persons must file a BPS if requested by the assessor. Property statements form the backbone of the business property assessment program. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

Workload

Two office assistants work with the auditor-appraisers in the business property division to process annual BPSs. The following table displays the assessor's BPS workload by type for the 2010-11 roll year:

BUSINESS PROPERTY STATEMENT	NUMBER PROCESSED
General Business	4,363
Agricultural	2,028
Apartments	77
Financial	29
Leased Equipment	924
TOTAL	7,421

General Statement Processing

The assessor does not have a direct billing or an efile program. All active business accounts receive a BPS on an annual basis.

Upon receipt of completed property statements, the general support staff stamps the statements with one of two stamps indicating whether the statement was received in the mail or over the counter. Statements are then forwarded to the business property division, where they are reviewed for completeness and the inclusion of an authorized signature. Incomplete statements or statements submitted without an authorized signature are copied and returned to the property owner, along with a letter indicating the reason for the statement's rejection. Sufficiently completed statements are separated between secured and unsecured accounts. Once screened and sorted, the statements are assigned to the auditor-appraisers, who then key cost data into the computer system and calculate a value conclusion. Once all timely filed property statements are valued and the related business accounts are updated, the computer system applies a section 463 penalty code to all remaining accounts, where statements were either not submitted or submitted subsequent to the statutory deadline of May 7.

Discovery

The assessor utilizes a wide range of tools in discovering taxable business property. In addition to taxpayer self-reporting, the assessor reviews fictitious business name filings, city and county business licenses, real property appraiser referrals, landlord reports of tenants, business directory services, periodic field canvasses, sales tax permits, and BOE notifications. We found the assessor employs comprehensive and effective methods for discovering business personal property.

Summary

We reviewed all major aspects of the assessor's BPS program, including processing procedures, use of Board-prescribed forms, application of penalties, coordination with real property staff, and record storage and retention. In addition, we reviewed several recently processed BPSs. We found that the statements that had been accepted by the assessor evidenced the proper usage of Board-prescribed forms, were completed in sufficient detail, and were properly signed. Additionally, we reviewed an internally developed form used by the assessor to coordinate the assessment of reported improvements. We found this form to be consistently and effectively used to ensure accurate and timely enrollment of real property improvements. Our review also included verifying the assessor's procedures for processing late and non-filed statements. We found the assessor applies the late-filing penalty as required by section 463 and habitual non-filers are flagged for a field review after failing to file a property statement for three consecutive years.

We have no recommendations for this program.

Business Equipment Valuation

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while other valuation factors result from valuation studies. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581).

The assessor has adopted the price indices and percent good factors recommended by the California Assessors' Association (CAA). The price indices parallel the indices published in AH 581, with the exception of specific types of equipment (such as pagers, facsimile equipment, and high tech medical equipment) that the CAA recommends should not be trended. We reviewed the assessor's valuation tables and a number of processed property statements.

The assessor classifies business property accounts by industry type. Standard equipment lives are assigned to each industry type. Appraisal personnel are given latitude to adjust default valuation tables to accommodate the individual business environments and characteristics of the property

being appraised. We reviewed the written procedures and standardized valuation policies related to business property valuation and found them to be adequately compiled and sufficiently detailed.

Machinery and equipment must be classified as either personal property or fixtures (improvements) depending on whether the item is physically or constructively annexed to real property with the intent, as evidenced by outward appearance, that the item will remain annexed indefinitely. We found during our examination that, in most cases, the assessor properly makes allocations between fixtures and personal property when machinery and equipment are reported in bulk. Observed allocations in most industries were consistently applied and supported by appraiser experience and judgment.

For the most part, we found the assessor's application of Board-recommended valuation tables to be consistently and accurately applied. However, we found several areas in need of improvement in the valuation of business equipment.

RECOMMENDATION 11: Improve the valuation of business equipment by:
(1) supporting any modifications to cost indices and percent good factors published in AH 581 with market evidence, (2) applying the mobile agricultural percent good factors prescribed in Table 6 of AH 581 as intended, and (3) properly classifying, assessing, and allocating values for service station personal property and fixtures.

Support any modifications to cost indices and percent good factors published in AH 581 with market evidence.

We found that in many cases, the assessor is modifying the product of the factors published in AH 581 to produce a smoother depreciation curve when valuing older machinery and equipment. The assessor could not provide market evidence to support these modifications. Any deviation from recommended factors should be supported by documented market data that would substantiate a more accurately derived value indicator. The arbitrary modification of either the cost indices or percent good factors in AH 581 sacrifices accuracy and may result in inequitable valuation findings when compared to nearby counties.

Apply the mobile agricultural percent good factors prescribed in Table 6 of AH 581 as intended.

AH 581 includes a separate percent good factor table for mobile agricultural equipment. We observed a number of instances where the assessor applied the mobile agricultural valuation table to other agricultural related personal property. This table is intended for the valuation of self-propelled machinery and related implements. Therefore, the assessor is incorrectly calculating current market value estimates of non-mobile agricultural equipment, including, but not limited to, bins, air compressors, irrigation pipe and risers, welders, and generators. The percent good factors indicated in AH 581 are based upon an exclusive set of market parameters. Accurate assessments depend on the judicial application of these tables. Mobile agricultural

percent good factors will likely lead to inaccurate value conclusions when applied to other moveable, yet non-mobile, taxable property.

Properly classify, assess, and allocate values for service station personal property and fixtures.

We found the assessor inconsistently classifies service station fixtures. Often, significant service station equipment costs reported on Schedule A of the business property statement (BPS) were not prorated between fixtures and personal property. In other cases, most markedly when fixtures were reported separately, the assessor classified the bulk of the taxable value as fixtures. Fixtures such as tanks, monitoring systems, and fuel dispensers are often reported with personal property, but should be classified and assessed as fixtures. In most cases, fixture items compose the majority of business property assessed to service stations.

In Letters To Assessors No. 92/27, 88/40, and 88/24, we provided guidance to assessors to classify real property items such as buried tanks, dispensers, hoists, and air/water stations as fixtures. Classifying those items as personal property is contrary to that advice.

Classification is an important element of the local assessment function for several reasons. Principally, it is important because property tax law requires the assessment roll to show separate values for land, improvements (including fixtures), and personal property. It is also significant because of the assessment differences between real property and personal property. These differences include: (1) only real property receives special assessments, (2) the tax rate on the unsecured roll is the rate of the prior year's secured roll, (3) personal property is appraised annually at market value, and (4) fixtures are a separate appraisal unit when measuring declines in value.

The assessor's current service station equipment assessment practices are inconsistent, and result in both inaccurate and inequitable treatment of similarly installed taxable property.

Manufactured Homes

A "manufactured home" is defined in Health and Safety Code section 18007, and statutes prescribing the method of assessing manufactured homes are contained in sections 5800 through 5842. A manufactured home is subject to local property taxation if sold new on or after July 1, 1980, or if its owner requests conversion from the vehicle license fee to local property taxation. Manufactured homes should be classified as personal property and enrolled on the secured roll.

In Madera County, there are 667 manufactured homes in 17 mobilehome parks. In addition, there are 1,053 manufactured homes situated outside of parks. One auditor-appraiser assesses all manufactured homes.

Manufactured homes are assigned a fictitious parcel number and are enrolled on the secured roll as personal property. Periodic reports from the Department of Housing and Community Development (HCD), dealer reports, building permits, as well as BOE-502-A, *Preliminary Change of Ownership Reports* (PCOR), and BOE-502-AH, *Change in Ownership Statements* (COS), are used to discover taxable manufactured homes.

In determining the full cash value, the assessor primarily uses Assessors' Handbook Section 531, *Residential Building Costs* (AH 531). This analysis ensures that the value enrolled does not include any value attributable to the site. Additionally, the assessor uses the sale price, local market cost data, and the National Automobile Dealers Association, *Manufactured Housing Cost Guide* (NADA).

Each year, after the full cash value is determined, the assessor's automated assessment system compares the full cash value to the factored base year value, and enrolls the lower of the two values. The assessor includes the value of accessories and takes into consideration the overall condition of manufactured homes when estimating full cash value.

The assessor correctly applies supplemental assessments to new homes and to those that have experienced a change in ownership. Exemptions are correctly handled for the assessment of manufactured homes held in dealer's inventory and those held or owned by financial institutions and insurance companies.

The assessor has an effective program for the discovery and assessment of manufactured homes. The program conforms to statutory provisions and is well administered. We have no recommendations for this assessment program.

Aircraft

General Aircraft

General aircraft are privately owned aircraft that are used for pleasure or business, but that are not authorized to carry passengers, mail, or freight on a commercial basis. Section 5363 requires the assessor to determine the market value of all aircraft according to standards and guidelines prescribed by the BOE. Section 5364 requires the BOE to establish such standards. On January 10, 1997, the BOE approved the *Aircraft Bluebook-Price Digest (Bluebook)* as the primary guide for valuing aircraft with the *Vref Aircraft Value Reference (Vref)* as an alternative guide for aircraft not listed in the *Bluebook*.

The following table provides a breakdown of aircraft enrolled in Madera County during the surveyed year:

AIRCRAFT TYPE	ASSESSMENTS	VALUE
General Aircraft	170	\$44,230,359
Commercial Aircraft	0	\$0
Historical Aircraft	21	\$1,019,400
Fractionally Owned Aircraft	0	\$0
Total	191	\$45,249,759

The 2010-11 roll year includes 170 general aircraft, with an assessed value of \$44,230,359. An auditor-appraiser is responsible for all aspects of general aircraft valuation, as well as the administration of the historical aircraft exemption. The assessor discovers aircraft through airport operators' reports, other county referrals, and Federal Aviation Administration reports.

Each year, the assessor mails BOE-577, *Aircraft Property Statement*, requesting current information from the known owner of each aircraft in the county. The form requests the owner to report engine information, air hours since the last major overhaul, airframe time, avionics equipment, current situs information, and transfer information if applicable. Upon receipt of the completed aircraft property statements, the auditor-appraiser uses the computerized version of the *Bluebook* to prepare a valuation worksheet for each aircraft to be appraised.

We reviewed several general aircraft records for valuation methodology, legal signatures, adherence to legally mandated procedures, and the application of late or non-filer penalties pursuant to section 5367. We found the assessor's procedures for the discovery, valuation, and assessment of general aircraft conforms to statutory provisions and guidelines set forth in Assessors' Handbook Section 577, *Assessment of General Aircraft* (AH 577).

The assessor uses the *Bluebook* to estimate the fair market value of general aircraft. Commencing with the *Bluebook* value, the assessor decreases the indicated value by 10 percent for overall condition, and modifies this value with other adjustments to reflect additional condition issues, engine hours, airframe time, and avionics. Sales tax is then applied to the final adjusted value. The assessor conforms to the BOE valuation guidelines contained in AH 577 and Letter To Assessors No. 97/03.

Historical Aircraft

Aircraft of historical significance can be exempted from taxation if they meet certain requirements. Section 220.5 defines "aircraft of historical significance" as: (1) an aircraft that is an original, restored, or replica of a heavier than air powered aircraft 35 years or older; or (2) any aircraft of a type or model of which there are fewer than five such aircraft known to exist worldwide.

The historical aircraft exemption is not automatic. Each year, the owner of a historical aircraft must submit an affidavit on or before 5:00 p.m., February 15, paying a filing fee of \$35 upon the initial application for exemption. Along with these requirements, aircraft of historical significance are exempt only if the following conditions are met: (1) the assessee is an individual owner who does not hold the aircraft primarily for purposes of sale, (2) the assessee does not use the aircraft for commercial purposes or general transportation, and (3) the aircraft was available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

There were 21 historical aircraft exemptions granted for the 2010-11 roll year in Madera County, with a total assessed value of \$1,019,400. The assessor properly obtains signed affidavits pursuant to section 220.5(c), and collects the onetime fee for the initial claim in accordance with section 220.5(e). We reviewed the historical aircraft assessments and exemption claim forms. The assessor correctly granted the exemption when the legal conditions were met, except in one unique case.

RECOMMENDATION 12: Grant the historical aircraft exemption only to individual aircraft owners who provide sufficient documentation for compliance with section 220.5.

The assessor granted an exemption for an airplane without the owner providing documentation of a willingness to display the aircraft to the public. The owner only provided a copy of an advertisement reporting a static display of an antique aircraft the first Monday of each month, and provided a telephone number.

Section 220.5 provides for an exemption from taxation for aircraft of historical significance. To qualify for this exemption, certain conditions must be met, one of which is that the aircraft must be available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed. Section 220.5(b)(3) provides that when applying for the exemption, the claimant must attach to the application a certificate of attendance from the event coordinator of the event at which the aircraft was displayed.

The AH 577 further explains that the aircraft can be displayed at either:

- 1) An organized air show.
- 2) A museum.
- 3) A special designated area set aside for historical aircraft open to the public.

To qualify as available for display to the public under any situation (other than 1, 2, or 3 previously stated), an individual must document that the aircraft is displayed in such a manner that the general public is aware that public viewing is clearly invited, and that there are reasonable accommodations to allow public viewing of the aircraft. To qualify as available for display also means that there must be a reasonable effort to make the general public aware of the display and there must be reasonable viewing hours. Making an aircraft available by appointment only is not a clear invitation to the general public to view the aircraft. In addition, an owner's homesite lacks reasonable accommodations for public viewing in most instances. The aircraft must be displayed in a place where deliberate public viewing can be accommodated during reasonable viewing hours.

The assessor's granting of this exemption without all of the required documentation is contrary to statute and AH 577.

Vessels

The primary sources used for the discovery of assessable vessels include reports from the State Department of Motor Vehicles (DMV), referrals from other counties, information provided by the vessel owners themselves, certificates of documentation issued by the United States Coast Guard, harbormasters' reports, and field canvassing.

Madera County's taxable vessels consist largely of personal watercraft and other fresh water recreational vessels. There were 2,358 taxable vessels enrolled in the county for the 2010-11 roll year. Vessels include every description of watercraft used for pleasure, transportation, scientific research, and commercial activities.

An office assistant is responsible for all duties related to the calculation of the vessel values, and the supervising auditor-appraiser is responsible for reviews and approvals of the values. The assessor utilizes DMV reports and referrals from other counties as methods of discovery.

For the purposes of California property taxation, vessels are valued at their fair market value every year as of the January 1 lien date. Sections 401 and 401.3 require the assessor to appraise vessels at market value each year. The assessor's practice is to establish the fair market value of vessels upon transfer or when first enrolled in the county. Newly enrolled vessels are appraised using the National Automobile Dealers Association, *Marine Appraisal Guide* (NADA). The assessor makes adjustments for vessel condition, motor and motor condition, and accessories, as well as deducts the value of the trailers when appropriate. For subsequent years, the assessor uses the BOE annual vessel depreciation factors to determine the value to be enrolled.

We have no recommendations for the assessor's vessel program.

APPENDIXES

A. County-Assessed Properties Division Survey Group

Madera County

Chief

Dean Kinnee

Survey Program Director:

Benjamin Tang

Principal Property Appraiser

Survey Team Supervisor:

Sally Boeck

Supervising Property Appraiser

Survey Team Leader:

Glenn Danley

Senior Specialist Property Appraiser

Survey Team:

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Ron Louie

Senior Specialist Property Appraiser

Robert Marr

Associate Property Appraiser

Jay Price

Associate Property Appraiser

Brian Salmon

Associate Property Appraiser

Julie Warren

Associate Property Appraiser

Jeff Arthur

Associate Property Auditor-Appraiser

Teresa Nguyen

Associate Property Auditor-Appraiser

B. Relevant Statutes and Regulations

Government Code

15640. Survey by board of county assessment procedures.

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

15641. Audit of records; appraisal data not public.

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

15642. Research by board employees.

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

15643. When surveys to be made.

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.

(d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

15644. Recommendations by board.

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

15645. Survey report; final survey report; assessor's report.

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

15646. Copies of final survey reports to be filed with local officials.

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

Revenue and Taxation Code

75.60. Allocation for administration.

(a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
- (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
 - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
 - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).

- (3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

Title 18, California Code of Regulations

Rule 370. Random selection of counties for representative sampling.

- (a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the ten largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.
- (b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.
 - (1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.
 - (2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.

- (3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) **ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS.** If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) **ADDITIONAL SURVEYS.** This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

Rule 371. Significant assessment problems.

(a) For purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
- (2) the sum of all the differences between the Board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

- (1) Uniformity of treatment for all classes of property.
- (2) Discovering and assessing newly constructed property.
- (3) Discovering and assessing real property that has undergone a change in ownership.
- (4) Conducting audits in accordance with Revenue and Taxation Code section 469.
- (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code sections 421 et. seq.
- (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code sections 107 et. seq.

- (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
 - (8) Discovering and assessing property that has suffered a decline in value.
 - (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.
- (c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

ASSESSOR'S RESPONSE TO BOE'S FINDINGS

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendations in the survey report. The survey report, the assessor's response, and the BOE's comments on the assessor's response, if any, constitute the final survey report.

The Madera County Assessor's response begins on the next page. The BOE has no comments on the response.



COUNTY OF MADERA

ASSESSOR'S OFFICE

200 W. 4TH STREET, MADERA, CALIFORNIA 93637-3548
(559) 675-7710 FAX (559) 675-7654
www.Madera-County.com/Assessor

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by EXECUTIVE DIRECTOR'S OFFICE
STATE BOARD OF EQUALIZATION

Thomas P. Kidwell, Madera County Assessor

September 24, 2012

Ms. Cynthia Bridges, Executive Director
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0073

Dear Ms. Bridges,

Pursuant to Government Code Section 15645, please find enclosed my response to the final draft of the Madera County Assessment Practices Survey Report dated August 2012.

I would like to thank the survey team for their cooperation, consideration and professionalism while conducting the survey. We welcomed this opportunity to have the survey team review our operations and benefited greatly from the frank discussions we had with them concerning the various aspects of our work.

I am especially pleased by the survey team's recognition of our efforts in the performance of our major responsibilities. It is the work of my staff that is truly being recognized in this regard. However, their accomplishments were made with the assistance of many, many others. These include the departments with whom we work in the County of Madera, the staffs of the cities of Chowchilla and Madera, the vendors who assist us in our many operations, other County Assessor Offices' staff, State Board of Equalization support staff, and others too numerous to mention. They too, just as we, deserve recognition for their part in providing fair, efficient service to the public.

My staff has worked diligently to implement the recommendations made in this survey as well as to improve the performance of our office in areas not surveyed. I am pleased to report that all of the recommendations have either already been implemented or will be implemented shortly.

My one suggestion, which I'm informed has already been implemented in later county surveys, would be that the Survey Team, prior to their departure, conduct a formal exit interview with the Assessor and his management team. This would make the Assessor immediately aware of the issues discovered by the Survey Team so that the office could begin to address those issues at that time, instead of waiting for the draft Survey Report.

Sincerely,

Thomas P. Kidwell
Madera County Assessor



COUNTY OF MADERA
ASSESSOR'S OFFICE
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Thomas P. Kidwell, Madera County Assessor

**Madera County Assessor's Response
to the Recommendations of the State Board of Equalization
contained in the Madera County Assessment Practices Survey Report
dated August 2012**

RECOMMENDATION 1: Improve the staff property and activities program by: (1) ensuring required staff complete and Submit BOE-121, *Statement of Financial Interest* and the internal *Conflict of Interest Statement*; and (2) expanding and complying with internal review procedures for the assessment of staff-owned property.

ASSESSOR'S RESPONSE: We have implemented these recommendations.

RECOMMENDATION 2: Properly administer the religious exemption program by: (1) granting the religious exemption only to real property owned by a religious organization, and (2) applying late-filed penalties for religious exemption claims when appropriate.

ASSESSOR'S RESPONSE: We have implemented these recommendations.

RECOMMENDATION 3: Improve the welfare exemption program by: (1) granting exemptions only to properties with exempt uses, and (2) granting exemptions only for those years claimed.

ASSESSOR'S RESPONSE: We have implemented these recommendations.

RECOMMENDATION 4: Apply penalties for failure to file a COS in accordance with section 482(a).

ASSESSOR'S RESPONSE: We have implemented this recommendation.

RECOMMENDATION 5: Reassess all properties having undergone a change in ownership due to foreclosure.

ASSESSOR'S RESPONSE: We have implemented this recommendation.

RECOMMENDATION 6: Improve the new construction assessment program by: (1) revaluing all construction in progress (CIP) at market value on each lien date, (2) using current market indicators when developing a cost approach to value new construction, and (3) substantiating new construction discounts on swimming pools.

ASSESSOR'S RESPONSE: We have implemented these recommendations.

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to the Recommendations of the State Board of Equalization
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RECOMMENDATION 7: Improve the taxable possessory interest program by: (1) exempting all qualifying low-value possessory interests, (2) reappraising changes in ownership of taxable possessory interests in accordance with section 61(b), (3) not assessing a taxable possessory interest to a public user of public lands, (4) excluding newly created taxable possessory interests established by month-to month agreements from supplemental assessments in accordance with section 75.5(b), and (5) issuing supplemental assessments upon the renewal or creation of a taxable possessory interest.

ASSESSOR'S RESPONSE: We have implemented these recommendations.

RECOMMENDATION 8: Use reserves indicated by current market data for the valuation of petroleum property.

ASSESSOR'S RESPONSE: We have implemented this recommendation.

RECOMMENDATION 9: Revise mineral appraisal procedures to properly identify and assess mineral rights.

ASSESSOR'S RESPONSE: We have implemented this recommendation.

RECOMMENDATION 10: Send a *Notice of Enrollment of Escape Assessment* as required by section 534.

ASSESSOR'S RESPONSE: We will submit a request to the Board of Supervisors to adopt an ordinance in accordance with the provisions of Revenue and Taxation Code section 1605 (c), thereby negating the need for a second notice and the associated costs of processing and mailing so as be in compliance with this recommendation.

RECOMMENDATION 11: Improve the valuation of business equipment by: (1) supporting any modifications to cost indices and percent good factors published in AH 581 with market evidence, (2) applying the mobile agricultural percent good factors prescribed in Table 6 of AH581 as intended, and (3) properly classifying and assessing service station real property items as fixtures.

ASSESSOR'S RESPONSE: We have implemented these recommendations.

RECOMMENDATION 12: Grant the historical aircraft exemption only to individual aircraft owners who provide sufficient documentation for compliance with section 229.5.

ASSESSOR'S RESPONSE: We have implemented this recommendation.