

**Initial Statement of Reasons for
Proposed Amendments to California Code of Regulations, Title 18,
Section 192, *Audit Selection***

**SPECIFIC PURPOSE, PROBLEM INTENDED TO BE ADDRESSED, NECESSITY,
AND ANTICIPATED BENEFITS**

Current Law

Under existing property tax law, an annual ad valorem tax is imposed on assessable property used in a trade or business. Taxpayers typically self-report the cost of such property to the local County Assessor on a "business property statement", as provided for by Revenue and Taxation Code¹ section 441. The business property statement shows all taxable business property, both real and personal, which is owned, claimed, possessed, controlled, or managed by the person filing the property statement.

To encourage the accurate and proper reporting of such property, section 469 requires County Assessors to annually audit a certain number of taxpayers, with the number varying by county.

Effective January 1, 2019, Senate Bill (SB) 1498 (Stats. 2018, Ch. 467) amended section 469 to provide County Assessors flexibility in meeting annual audit requirements. Beginning with the 2019-20 fiscal year, Assessors may meet the requirements of section 469 by completing four years' worth of required annual audits anytime within a set four-year period.

Effects, Objectives, and Benefits of the Amendments to the Property Tax Rule

Under the authority of Government Code section 15606, subdivision (c), which authorizes the Board to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and County Assessors when assessing, the Board adopted Property Tax Rule 192, *Audit Selection*, to implement, interpret, and make specific the audit requirements of section 469.

Following the enactment of SB 1498, an additional amendment was deemed necessary to further implement, interpret, and make specific certain provisions in section 469 (the Proposed Amendment).

The amendment to Rule 192 makes the following change:

- Subdivision (c)(4) was added. It clarifies that a County Assessor meets the section 469 requirements if they complete four years' worth of audits anytime within a set four-year period that begins with the 2019-2020 fiscal year.

¹ All further statutory references are to the Revenue and Taxation Code unless otherwise indicated.

The above amendment is reasonably necessary for the efficient and fair administration of the audit selection provisions under section 469. The Board anticipates that the Proposed Amendment will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, County Assessors, and owners of property subject to the audit selection provisions under section 469. Portions of the Proposed Amendment may duplicate or overlap language found in section 469; however, the “nonduplication” standard found at Government Code section 11349.1, subdivision (a)(6) is met because, pursuant to 1 Code of California Regulations section 12, subdivision (b)(1), the duplication or overlap is necessary to satisfy the “clarity” standard of Government Code section 11349.1, subdivision (a)(3). Without the duplication or overlap, the rule would be incomplete or unclear.

The Board has performed an evaluation of whether the amendment to proposed Property Tax Rule 192 is inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Amendment is not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the amendment to the Rule. In addition, there is no comparable federal regulation or statute to Property Tax Rule 192.

DOCUMENTS RELIED UPON

- Legislative, Research & Statistics Division, Board of Equalization, Legislative Enrolled Bill Analysis on Senate Bill 1498 (Sept. 19, 2018).
- Letter to Assessors no. 2018/067, *Business Property Audits* (Dec. 31, 2018).
- Letter to Assessors no. 2022/053, *Property Tax Rule 192* (Nov. 15, 2022).

ALTERNATIVES CONSIDERED

The Board considered whether to begin the formal rulemaking process to adopt the Proposed Amendment at this time, or alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the proposed amendment at this time because the Board determined that the proposed amendment is reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the Proposed Amendment that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purpose of the proposed action. No reasonable alternative has been identified and brought to the Board’s attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons that the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2, SUBDIVISION (b)(5) AND ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b), AND DETERMINATIONS AND ESTIMATE REQUIRED BY GOVERNMENT CODE 11346.5 SUBDIVISIONS (a)(5), (6), AND (8)

These Proposed Amendment merely implements, interprets, and makes specific section 469's provisions. Thus, the Board anticipates limited certain costs related to the communication and implementation of this regulation. The Board anticipates a one-time absorbable cost to the State Board of Equalization of \$922 to update its website, issue letters regarding this rule to interested parties, and to train County Assessors on how to audit property under this rule after the regular rulemaking process is complete. County Assessors' offices are already required to audit a certain number of businesses annually and would be given the option to complete the four-year total number of audits within a set four-year period even in the absence of this Proposed Amendment. The Board does not anticipate that the Proposed Amendment will lead to a significant, quantifiable difference of claim volume for the County Assessors' offices.

Since this regulation interprets, clarifies, and implements section 469 by providing the additional option to the County Assessors to complete required audits within a set four-year period and does not increase or reduce the number of required audits over the time period, it does not impact the majority of small businesses as defined in Government Code section 11346.3, subdivision (b)(4)(B).

This regulation is not expected to create or eliminate jobs within the state. The Board likewise does not expect any creation of new business or elimination of existing businesses within the state, nor does it expect an expansion of businesses currently doing business within the state. The Board expects that the adoption of the Proposed Amendment will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the Proposed Amendment will not have a significant adverse economic impact on business.