

SAN JOAQUIN COUNTY ASSESSMENT PRACTICES SURVEY

JANUARY 2013

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No. 2013/011

January 23, 2013

TO COUNTY ASSESSORS:

SAN JOAQUIN COUNTY
ASSESSMENT PRACTICES SURVEY

A copy of the San Joaquin 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 Kenneth W. Blakemore, San Joaquin County Assessor-Recorder-County Clerk, 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 San Joaquin 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 November through December 2010. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Blakemore 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.

Sincerely,

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:ps
Enclosure

TABLE OF CONTENTS

Introduction.....	1
Objective	2
Scope and Methodology	2
Executive Summary	4
Overview of San Joaquin County	6
Findings and Recommendations	6
Appraiser Certification.....	7
Staff Property and Activities.....	8
Assessment Appeals.....	9
Disaster Relief.....	10
Exemptions	11
Change in Ownership.....	17
California Land Conservation Act Property	18
Taxable Possessory Interests.....	21
Mineral Property	23
Audit Program.....	24
Business Property Statement Program.....	26
Business Equipment Valuation	27
Appendix A: Statistical Data	30
Appendix B: County-Assessed Properties Division Survey Group	36
Appendix C: Relevant Statutes and Regulations	37
Assessor's Response to BOE's Findings	38

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 San Joaquin County Assessor-Recorder-County Clerk's Office.¹

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 Board, and the Senate and Assembly; and to the San Joaquin 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 Kenneth W. Blakemore, San Joaquin County Assessor-Recorder-County Clerk, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

¹ This report covers only the assessment functions of this office.

OBJECTIVE

The survey shall "...show the extent to which assessment practices are consistent with or differ from state law and regulations."² The primary objective of a survey is to ensure the assessor's compliance with state law governing the administration of local property taxation. This objective serves the three-fold purpose of protecting the state's interest in the property tax dollar, promoting fair treatment of taxpayers, and maintaining the overall integrity and public confidence in the property tax system in California.

The objective of the survey program is to promote statewide uniformity and consistency in property tax assessment, review each county's property assessment practices and procedures once every five years and publish an assessment practices survey report. Every assessor is required to identify and assess all properties located within the county – unless specifically exempt – and maintain a database or "roll" of the properties and their assessed values. If the assessor's roll meets state requirements, the county is allowed to recapture some administrative costs.

SCOPE AND METHODOLOGY

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. 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](#).³

Our survey methodology of the San Joaquin 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 San Joaquin County who provided information relevant to the property tax assessment program.

For a detailed description of the scope of our review of county assessment practices, please refer to the Assessment Practices Survey Program Master Document, available on the Board's website at [\[insert link\]](#).

We conducted reviews of the following areas:

- **Administration**

We reviewed the assessor's administrative policies and procedures that affect both the real property and business property assessment programs. Specific areas reviewed

²Government Code [section 15642](#).

³All rule references are to sections of the California Code of Regulations, Title 18, Public Revenues.

include assessor's budget and staffing, workload, appraiser certification, assessment appeals, disaster relief, exemptions, assessment forms, and staff property procedures.

- **Assessment of Real Property**

We reviewed the assessor's program for assessing real property. Specific areas reviewed include revaluation of properties that have changed ownership, valuation of new construction, annual review of properties that have experienced declines in value, and annual revaluations of certain properties subject to special assessment procedures, such as property subject to California Land Conservation Act contracts and taxable possessory interests.

- **Assessment of Personal Property and Fixtures**

We reviewed the assessor's program for assessing personal property and fixtures. Specific areas reviewed include business property statement processing, business property valuation, audit program, leased equipment discovery and assessment programs, the assessment of manufactured homes, and vessels.

SAMPLE

EXECUTIVE SUMMARY

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.

In the area of administration, the assessor is effectively managing staffing and workload. However, we made recommendations for the improvement of the appraiser certification, staff property and activities, assessment appeals, disaster relief, and exemptions programs.

In the area of real property assessment, the assessor has effective programs for new construction and declines in value. However, we made recommendations for improvement of the change in ownership, California Land Conservation Act (CLCA) property, taxable possessory interests, and mineral property programs.

In the area of personal property and fixtures assessment, the assessor has effective programs for assessing manufactured homes, aircraft, and vessels. However, we made recommendations for improvement of the following programs: audit, business property statements, and business equipment valuation.

The San Joaquin County assessment roll meets the requirements for assessment quality established by [section 75.60](#). Our sample of the 2010-11 assessment roll indicated an average assessment ratio of 100.04 percent, and the sum of the absolute differences from the required assessment level was 1.79 percent. Accordingly, the BOE certifies that San Joaquin County is eligible to receive reimbursement of costs associated with administering supplemental assessments.

Following is a list of the formal recommendations contained in this report.

RECOMMENDATION 1:	Ensure appraisers meet section 671 annual training requirements.....	8
RECOMMENDATION 2:	Improve the assessment of staff-owned property by developing more detailed written procedures for the assessment of staff-owned property.....	9
RECOMMENDATION 3:	Instruct applicants to return the withdrawal letter directly to the clerk of the assessment appeals board (AAB).	11

- RECOMMENDATION 4:** Modify disaster relief procedures by: (1) revising the notice of reassessment for disaster relief to conform to the requirements of section 170(c), and (2) calculating the proration of taxes due on damaged property to include the month in which the damage occurred.10
- RECOMMENDATION 5:** Improve the administration of church and religious exemptions by: (1) granting the church exemption only for religious worship and church parking, (2) mailing both the church exemption claim forms and annual religious exemption notices prior to January 1, and (3) conducting field inspections on all new claims filed for church and religious exemptions.11
- RECOMMENDATION 6:** Improve the administration of the welfare exemption by: (1) requiring nonprofit claimants that own and operate low-income housing property to meet all filing requirements, and (2) denying the welfare exemption on personal property put to an exempt use after the lien date.12Error! Bookmark r
- RECOMMENDATION 7:** Improve the exemptions program by applying the penalty to all late-filed claims.....13
- RECOMMENDATION 8:** Improve the administration of the disabled veterans' exemption by: (1) imposing appropriate late-filing penalties pursuant to sections 276 and 276.2, (2) granting the disabled veterans' exemption on a prorated basis in accordance with sections 276.1 and 276.2, (3) granting the full amount of the disabled veterans' exemption to the extent of the interest owned by the claimant pursuant to section 205.5(d), (4) removing the disabled veterans' exemption as of the date the property is no longer the claimant's principal place of residence, and (5) requiring documentation that the disabled veteran has been honorably discharged.14
- RECOMMENDATION 9:** Improve the penalty process by: (1) removing misleading language from the *Notice of Penalty for Failure to File Completed Change in Ownership Statement*, and (2) correctly implementing the penalty abatement process in compliance with section 483.17

RECOMMENDATION 10: Improve the valuation of CLCA properties by: (1) including all potential income available to the property when determining the value, (2) properly allocating restricted value between land and living improvements, (3) valuing commercial use portions of restricted property using the restricted rate, (4) using current market rents to estimate the income utilized in the valuation of restricted properties, and (5) properly calculating nonliving improvement expenses.....19

RECOMMENDATION 11: Improve the taxable possessory interest program by: (1) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, and (2) properly issuing supplemental assessments.22

RECOMMENDATION 12: Annually determine reserves and their value pursuant to Rule 469.....23

RECOMMENDATION 13: Request a waiver of the statute of limitations when an audit will not be completed in a timely manner.....24

RECOMMENDATION 14: Improve the audit program by: (1) using a comprehensive audit checklist as a standard component of all audits, and (2) enrolling all escape assessments and overassessments discovered during the course of an audit.25

RECOMMENDATION 15: Improve the business property statement (BPS) program by: (1) properly valuing and assessing landlord-owned personal property in apartments, and (2) valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS or files late.26

RECOMMENDATION 16: Properly classify and value taxable business property by: (1) correctly classifying machinery and equipment reported on the business property statement (BPS), and (2) valuing structural improvements reported on the BPS in the same manner as other real property structures.....28

Despite the problems noted above, we found that most properties and property types are assessed correctly, and the overall quality of the assessment roll meets state standards.

OVERVIEW OF SAN JOAQUIN COUNTY

San Joaquin County was established by the California Legislature in 1850 as one of the original 27 counties. The county lies in the heart of the California Central Valley, taking its name from the San Joaquin River. It is bordered by Sacramento County to the north and northwest, Amador and Calaveras Counties to the east, Stanislaus County to the south and southeast, Contra Costa and Alameda Counties to the west, and Santa Clara County at the southwest corner.

San Joaquin County has a total area of about 1,426 square miles, which consists of 1,399 square miles of land and 27 square miles of water. There are seven incorporated cities: Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy. Stockton is the county seat. As of 2010, San Joaquin County had a population of approximately 685,300.

FINDINGS AND RECOMMENDATIONS

As noted earlier, our review concluded that the San Joaquin County assessment roll meets the requirements for assessment quality established by [section 75.60](#). The report does not provide a detailed description of all areas reviewed; it addresses only the deficiencies discovered.

We found that most properties and property types are assessed correctly. However, in the area of administration we noted improvement is needed in the appraiser certification, staff property and activities, assessment appeals, disaster relief, and exemptions programs. In the area of real property assessment, improvement is needed in the change in ownership, California Land Conservation Act (CLCA) property, taxable possessory interests, and mineral property programs. In the area of personal property and fixtures assessment, improvement is needed in the audit program, processing business property statements, and the valuation of business equipment.

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. [Section 671](#) requires that holders of appraiser's certificates receive 24 hours of Board-approved or Board-conducted training each year. Holders of advanced certificates must receive 12 hours of Board-approved training each year.⁴

There are a total of 42 certified appraisers on staff, including the assessor; 34 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 uses contract appraisers to value mineral properties.

⁴ For a detailed description of the scope of our review of appraiser certification issues please refer to the Assessment Practices Survey Program Master Document, available on the Board's website at [\[insert link\]](#).

During the course of our review, we found one area in the assessor's appraiser certification program in need of improvement.

RECOMMENDATION 1: Ensure appraisers meet [section 671](#) annual training requirements.

During our review, we noted that several of the appraisers were deficient in continuing education hours. [Section 671\(a\)](#) provides that in order to retain a valid appraiser's certificate, an appraiser must complete 24 hours of training conducted or approved by the BOE each year. [Section 671\(b\)](#) provides that appraisers with an advanced appraiser's certificate must complete 12 hours of training annually.

The BOE's training unit provides each assessor with an annual report, summarizing each appraiser's training and certification status. The assessor should ensure that all appraisers are current in their continuing education requirements. Failure to maintain the required continuing education could lead to confusion about current appraisal procedures and practices, and could possibly result in providing misleading information to taxpayers. Moreover, according to [section 671\(a\) and \(b\)](#), failure to receive such training shall constitute grounds for revocation of an appraiser's certificate or advanced certificate.

Staff Property and Activities

For a property tax appraiser, the most common potential conflict of interest arises where the appraiser is involved in the task of valuing his or her own taxable property. Accordingly, county assessors should have procedures in place to prevent such conflicts of interest. In [Letter to Assessors No. 2008/58](#) the Board issued a guide to assist county assessors in establishing procedures relative to the assessment of employee-owned properties.⁵

The assessor is in compliance with [section 672](#) and has ensured that all staff have completed Form 700. In addition, employees are required to report any change in ownership interest, new construction or alteration to property, filing of an application for an informal review or an exemption, a request for a decline in value, an application for changed assessment, or any other employee-initiated event of their property that may result in a change to an assessment or property record.

We reviewed a number of staff-owned properties and found no problems with their valuation for changes in ownership and completed new construction. However, based upon our review, we have the following recommendation:

⁵ For a detailed description of the scope of our review of staff property and activities issues please refer to the Staff Property and Activities portion of the Assessment Practices Survey Program Master Document, available on the Board's website at [\[insert link\]](#).

RECOMMENDATION 2: Improve the assessment of staff-owned property by developing more detailed written procedures for the assessment of staff-owned property

We found the assessor does not have detailed written procedures to fully address the assessment of real and personal property in which staff in the assessor's office holds an interest.

Although our review revealed no problems when assessing staff-owned property, detailed written procedures addressing the assessment of not only staff-owned property, but property owned by a spouse, a family member, or a dependent child is considered sound management and is recommended. Development of and adherence to written procedures would promote an acceptable level of oversight regarding the assessment of staff-owned property. The lack of in-depth written procedures does not address the risk that property owned by an employee or relative could be assessed by the employee, which may result in an appearance of impropriety.

Assessment Appeals

When a taxpayer disagrees with the assessor's determination of value, and the disagreement cannot be resolved informally, the taxpayer may seek a formal review by way of an assessment appeal. To initiate this review the taxpayer must file a proper application with the clerk of the assessment appeals board. The application must be filed within a certain time period, which will depend on the circumstances of the appeal and the county in which the application is filed.⁶

During our survey, we were able to attend an AAB hearing. In general, we found the assessor's presentations to be well organized and the assessor's assessment appeals program to be well administered. However, we found an area of concern.

RECOMMENDATION 3: Instruct applicants to return the withdrawal letter directly to the clerk of the assessment appeals board (AAB).

When a taxpayer notifies the assessor of their intent to withdraw their application for appeal, the assessor mails a withdrawal form to the applicant. The withdrawal form and cover letter are printed on the assessor's letterhead. The cover letter instructs the taxpayer to sign the withdrawal form and return it in the self-addressed envelope (with the assessor's return address) or by fax (which is located within the assessor's office). Once a withdrawal form is received by the assessor's office, it is logged and scanned into a database, which can also be accessed by the clerk. The assessor's office maintains all the original withdrawals it receives.

Forty-five days prior to the appeals hearing, applicants receive a notice of hearing from the clerk with the clerk's contact information. Some applicants submit their withdrawal form to the clerk as a result of this notice. Once a withdrawal form is received by the clerk, it is scanned into the same database shared by the assessor's office. The clerk maintains all the original withdrawal documents it receives.

⁶ For a detailed description of the scope of our review of assessment appeals issues please refer to the Assessment Appeals portion of the Assessment Practices Survey Program Master Document, available on the Board's website at [\[insert link\]](#).

The AAB is an independent entity, whose function is to resolve value disputes between taxpayers and the assessor. Therefore, it is inappropriate for the assessor to act as an intermediary between the AAB and taxpayers by requesting taxpayers to submit withdrawal forms to the assessor.

The assessor's procedure could give an appearance that the assessor is intervening in the independent third-party review to which every appellant has the right. The assessor should revise the withdrawal letter to instruct the applicant to submit the request for withdrawal directly to the clerk rather than the assessor's office. The clerk should then timely forward a copy of the withdrawal letter to the assessor.

Disaster Relief

Section 170 permits a county board of supervisors to adopt an ordinance that allows immediate property tax relief on qualifying property damaged or destroyed by misfortune or calamity. The relief is available to any assessee whose property suffers damage exceeding \$10,000.⁷

We reviewed a number of claims having been approved and processed for disaster relief and found that the assessor handled most aspects properly. The assessor processes disaster relief claims timely, and his policies and procedures for the processing of disaster relief claims are correct and in compliance with [section 170](#). However, we noted areas for improvement in the assessor's disaster relief program.

RECOMMENDATION 4: Modify disaster relief procedures by: (1) revising the notice of reassessment for disaster relief to conform to the requirements of [section 170\(c\)](#), and (2) calculating the proration of taxes due on damaged property to include the month in which the damage occurred.

Revise the notice of reassessment for disaster relief to conform to the requirements of section 170(c).

When the assessor grants a taxpayer disaster relief and reassesses their property, the assessor notifies the taxpayer by sending either a *Notice of Proposed Escape/Correction to Assessment Roll* or a *Notice of Supplemental Assessment*, depending on how relief was granted. However, these notices indicate that the deadline to file a formal appeal is within 60 days of the date of mailing of the notice. According to [section 170\(c\)](#), the notice must state that the taxpayer may appeal the reassessment within six months of the date of mailing the notice.

Failure to properly notify taxpayers of their assessment appeal rights may lead taxpayers to believe they have missed the deadline to file an appeal when in fact they may have an additional four months to file.

⁷ For a detailed description of the scope of our review of disaster relief issues please refer to the Disaster Relief portion of the Assessment Practices Survey Program Master Document, available on the Board's website at [\[insert link\]](#).

Calculate the proration of taxes due on damaged property to include the month in which the damage occurred.

In the calculation of the prorated tax due on damage property after reassessment, the assessor is not granting tax relief for the month in which the damage occurred. We found the assessor's computer system automatically prorates the relief as of the month following the date of event of the disaster or calamity.

[Section 170\(e\)](#) provides that relief shall include the month in which the damage occurred. The assessor's practice violates the taxpayer's right to receive tax relief for the entire month in which the damage occurred.

Exemptions

We review the assessor's programs for administering the church and religious exemptions, the welfare exemption, and the disabled veterans' exemption.⁸

Church and Religious Exemptions

We reviewed a number of church and religious exemption claims and discovered several areas where improvement is needed.

RECOMMENDATION 5: Improve the administration of church and religious exemptions by: (1) granting the church exemption only for religious worship and church parking, (2) mailing both the church exemption claim forms and annual religious exemption notices prior to January 1, and (3) conducting field inspections on all new claims filed for church and religious exemptions.

Grant the church exemption only for religious worship and church parking.

We found that the assessor is granting the church exemption on property for uses other than religious worship or church parking. For example, claims reviewed indicated that the church exemption was granted on property used for a caretaker home and office space, property leased to a different entity and used as education and administrative offices, vacant land, and in a few cases the use is not identified on the claim form or in the file. [Section 206](#) provides the church exemption for property used exclusively for worship purposes and [section 206.1](#) provides for the exemption of church parking. The county is granting the church exemption on property used outside the scope of the statute.

⁸ For a detailed description of the scope of our review of exemptions issues please refer to the Exemptions portion of the Assessment Practices Survey Program Master Document, available on the Board's website at [\[insert link\]](#).

Mail both the church exemption claim forms and annual religious exemption notices prior to January 1.

We found that the assessor mails both the church exemption claim forms and the annual religious exemption notices after January 1 each year. [Section 256\(b\)](#) provides that each year before the lien date, the assessor shall mail a claim form for the church exemption to all recipients of such exemption in the prior year. [Section 257.1](#) provides that prior to the lien date, the assessor shall annually mail a notice to every person who received the religious exemption for the previous fiscal year. The assessor's practice of mailing the forms and notices after January 1 is not in compliance with statute and also may not provide a sufficient amount of time for claimants to file timely.

Conduct field inspections on all new claims filed for church and religious exemptions.

We found that the assessor does not conduct field inspections on all new church and religious exemption claims. [Section 256](#) provides that the affidavit for a church exemption shall show that the building and equipment are used solely for religious worship, while [section 257](#) provides that any person claiming the religious exemption shall submit to the assessor an affidavit and the affidavit shall show that the building, equipment, and land are used exclusively for religious purposes.

In order to verify the use of property as reported by claimants on church or religious claims, the assessor should conduct a field inspection on property on which an exemption is claimed for the first time. A field inspection is essential to ensure that the property use meets exemption requirements and to determine what portion of the property is eligible for exemption. The assessor's failure to conduct field inspections on all church and religious exemption claims may result in an improper exemption of property being granted.

Welfare Exemption

We reviewed a number of welfare exemption claims and discovered several areas where improvement is needed.

RECOMMENDATION 6: Improve the administration of the welfare exemption by: (1) requiring nonprofit claimants that own and operate low-income housing property to meet all filing requirements, and (2) denying the welfare exemption on personal property put to an exempt use after the lien date.

Require nonprofit claimants that own and operate low-income housing property to meet all filing requirements.

We found that the assessor does not require nonprofit claimants filing exemption claims on low-income housing property to file supplemental affidavits and provide a copy of a regulatory agreement, deed restriction, or other legal document.

BOE-267-L, *Welfare Exemption Supplemental Affidavit, Housing – Lower Income Households*, must accompany the first-time filing claim BOE-267, *Claim for Welfare Exemption (First*

Filing), when requesting a welfare exemption on low-income housing property owned and operated by a nonprofit organization. The exemption cannot be granted unless all information requested in the affidavit is provided and the signed affidavit is filed with the assessor. Additionally, pursuant to the BOE's authority in [section 254](#), which provides that the claimant shall submit to the assessor annually an affidavit giving any information required by the BOE, the BOE requires that the claimant provide a copy of the regulatory agreement, deed restriction, or other legal document with the assessor of the county where the property is located. The document should be filed along with first filing claim BOE-267, the supplemental affidavit BOE-267-L, and any other relevant documents.⁹

When the assessor does not require the claimant to meet all filing requirements, the assessor may be granting an exemption on property that is not eligible for an exemption.

Deny the welfare exemption on personal property put to an exempt use after the lien date.

We found that the assessor granted a welfare exemption on personal property used at locations leased by the claimant, where the lease started after the lien date. Although the property was not put to an exempt use until after the lien date, the assessor granted a welfare exemption for the year. Pursuant to [section 401.3](#), the assessor shall assess all property subject to general property taxation on the lien date as provided in articles XIII and XIII A. Consistent with this mandate, [section 405\(a\)](#) provides that the assessor shall annually assess all taxable property in his county, except state-assessed property, to the persons owning, claiming, possessing, or controlling it on the lien date. In California, the lien date is January 1, which is the date that property taxes are levied and the date when property taxes for that year become a lien on the property pursuant to [section 2192](#). In general, the taxable status of property, for purposes of property taxation, is determined as of the lien date.

Under California law, all property is subject to property taxation unless specifically exempt under federal or state statutory law.¹⁰ [Section 214](#) is the primary welfare exemption statute. Entities claiming the welfare exemption on their properties must meet all of the requirements for the exemption under [section 214](#) on the January 1 lien date in order to receive the exemption for the upcoming fiscal year (July 1 – June 30). The exemption may be pro-rated if it is real property and it is put to an exempt use within 180 days of acquisition of the property (exempt use includes construction).¹¹

Granting the welfare exemption on personal property not put to an exempt use until after the lien date may result in an exemption of property that is not eligible for an exemption until the next lien date.

Late-Filing Provisions, Church, Religious, and Welfare Exemptions

We reviewed several late-filed claims to verify appropriate application of the late-filing penalty. Although we found most late-file penalties were properly calculated and applied, we did note areas for improvement.

⁹ See [Assessors' Handbook Section 267](#), *Welfare, Church, and Religious Exemptions*, page 70.

¹⁰ California Constitution, [article XIII, section 1](#); [section 201](#).

¹¹ [Section 75.24](#).

RECOMMENDATION 7: Improve the exemptions program by applying the penalty to all late-filed claims.

We found that the assessor does not apply a penalty to all late-filed claims. We discovered claims that were date stamped after February 15 and had dates received in the database mail log after February 15, but a penalty was not applied to the exemption. [Section 270](#) provides late-filing provisions for exemption claims not filed timely. The assessor's failure to apply the penalty to all late-filed claims results with the granting of property tax exemptions greater than allowed by statute.

Disabled Veterans' Exemption

During our review of the disabled veterans' exemption claims, we found several areas in need of improvement.

RECOMMENDATION 8: Improve the administration of the disabled veterans' exemption by: (1) imposing appropriate late-filing penalties pursuant to [sections 276](#) and [276.2](#), (2) granting the disabled veterans' exemption on a prorated basis in accordance with [sections 276.1](#) and [276.2](#), (3) granting the full amount of the disabled veterans' exemption to the extent of the interest owned by the claimant pursuant to [section 205.5\(d\)](#), (4) removing the disabled veterans' exemption as of the date the property is no longer the claimant's principal place of residence, and (5) requiring documentation that the disabled veteran has been honorably discharged.

Impose appropriate late-filing penalties pursuant to sections 276 and 276.2.

We found that the assessor grants first-time filers 100 percent of the eligible exemption amount on their property, even though they have filed outside the deadlines for a timely filed claim. For a timely filed claim, [section 276.2 \(a\)](#) provides that if property becomes eligible after the lien date, and an appropriate application for that exemption is filed on or before the lien date in the calendar year next following the calendar year in which the property became eligible, there shall be canceled or refunded the amount of any taxes levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate application.

Accordingly, [section 276](#) requires the assessor to grant a partial exemption of 85 percent of the eligible amount when an exemption for a prior tax year is claimed. Additionally, when a first time claim is filed retroactively for prior years, the exemption for the year in which the claim is filed may be reduced to 90 percent if the claim is filed after February 15, but on or before December 10. Numerous claims reviewed indicated late-filings with no corresponding late-filing penalties imposed, resulting in a loss of property tax revenue.

Grant the disabled veterans' exemption on a prorated basis in accordance with sections 276.1 and 276.2.

We found that in some cases the assessor has based the effective date of the exemption on the next lien date following the year of qualification, in which case the exemption would not be reflected until the ensuing fiscal year. We also found that in one case the exemption was granted for the entire fiscal year when it should have been prorated for the number of days eligible for that fiscal year. [Section 276.1\(b\)](#) provides that the disabled veterans' exemption applies beginning on the effective date, as determined by the United States Department of Veterans Affairs (USDVA), of a disability rating that qualifies the claimant for the exemption. Additionally, [section 276.2\(b\)](#) provides that, "The entire amount of the exemption applies to any property tax assessment, including a supplemental and escape assessment, that was made and that served as a lien against the property. The exemption amount shall be appropriately prorated from the date the property became eligible for the exemption."

The denial of the full exemption as of the date of qualification deprives claimants of the full amount of exemption and any refunds to which they are entitled. In addition, granting the exemption for the entire fiscal year when the claimant only qualifies for a portion of the year allows the claimant a benefit for which they do not qualify. Both practices are contrary to statute.

Grant the full disabled veterans' exemption to the extent of the interest owned by the claimant pursuant to section 205.5(d).

We discovered claims in which the assessor reduced the amount of the eligible exemption by 50 percent, rather than granting the full exemption up to the claimant's share of the property's value when the claimant owned 50 percent interest in the property. In a few of the claims, the maximum exemption could have been granted because 50 percent of the property's value exceeded the maximum exemption allowed. In one claim, the assessor correctly granted the exemption in the first eligible year based upon 50 percent of the interest owned (assessed value); however, in the two subsequent years, the exemption was based upon 50 percent of the maximum scheduled exemption amount. [Section 205.5\(d\)\(3\)](#) provides that "property that is owned by a veteran" or "property that is owned by the veteran's unmarried surviving spouse" includes, in part, "... (3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse. (4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse."

The assessor's practice of granting only 50 percent of the exemption denies taxpayers the full amount of the exemption to which they are entitled and is contrary to statute.

Remove the disabled veterans' exemption as of the date the property is no longer the claimant's principal place of residence.

We found that the assessor does not always remove the disabled veterans' exemption from the principal place of residence as of the date the claimant no longer occupies the residence. Of several claims reviewed in this situation, when claimants notified the assessor of a change, the exemptions were not removed as of the date the property was vacated. Instead, the exemption

remained on the original property through the last day of the fiscal year in which the property became disqualified, and the exemption was applied to the new principal place of residence at the beginning of the next fiscal year, even though the claimants occupied the new residence prior to that date. [Section 279](#) provides that the disabled veterans' exemption shall remain in continuous effect unless specified conditions occur, one being that the owner does not occupy the dwelling as their principal place of residence. [Section 276.3\(b\)](#) provides that when property is no longer used by a claimant as their principal place of residence, the exemption shall cease to apply on the date the claimant terminates residency at that location. Finally, [section 276.2\(b\)](#) provides that if a property becomes eligible for the exemption after the lien date, the exemption shall be appropriately prorated from the date the property became eligible for the exemption.

The practice of not cancelling the exemption when the claimant moves out of the principal place of residence and not prorating the exemption on the substitute property is contrary to statute and may result in the exemption of property not eligible for an exemption, as well as delaying an exemption to eligible property.

Require documentation that the disabled veteran has been honorably discharged.

We found that the assessor does not require proof that the disabled veteran was honorably discharged. The assessor's policy is that such proof is not required because generally the claimant would not be eligible to receive 100 percent disability compensation if not honorably discharged.

[Article XIII, section 3](#) of the California Constitution specifically states the veteran must be discharged under honorable conditions. Although the Department of Veterans Affairs has indicated that a veteran would not typically be eligible to receive a 100 percent disability rating if the discharge conditions were dishonorable, they are eligible to receive compensation if they are discharged under "general" or "other than honorable conditions." The assessor's practice of not requesting a *Certificate of Release or Discharge from Active Duty* (DD Form 214) or some other verification of honorable discharge may result in the assessor granting exemptions to ineligible claimants.

Change in Ownership

A major function in any California county assessor's office is the administration of a program for discovering and processing changes in ownership of real property. This is because the California Constitution requires that nearly all real property be assigned a base year value as of the date of the property's most recent change in ownership. We found two areas where improvement is needed when processing penalties for failure to file a COS.¹²

¹² For a detailed description of the scope of our review of change in ownership issues please refer to the Change in Ownership portion of the Assessment Practices Survey Program Master Document, available on the Board's website at [insert link].

RECOMMENDATION 9: Improve the penalty process by: (1) removing misleading language from the *Notice of Penalty for Failure to File Completed Change in Ownership Statement*, and (2) correctly implementing the penalty abatement process in compliance with [section 483](#).

Remove misleading language from the *Notice of Penalty for Failure to File Completed Change in Ownership Statement*.

The assessor initially allows a property owner 30 days to return a COS before sending a second COS and a *Notice of Penalty for Failure to File Completed Change in Ownership Statement*. While we found no examples where the assessor applied a penalty prior to the 45 days allowed under [section 482\(a\)](#),¹³ the notice of penalty contains misleading language indicating the penalty is already in effect and the property owner has 60 days as of the date of the notice to have the penalty abated under [section 483\(b\)](#), even though the notice was issued 15 days prior to the 45-day deadline.

During 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 from the date of a written request by the assessor, a specific penalty shall be added to the assessment made on the roll.¹⁴ In addition, [section 482\(f\)](#) provided that the assessor shall mail to the property owner a notice of any penalty added to the secured or unsecured roll pursuant to [section 482](#).

Even though the assessor did not actually apply the penalty prior to the 45-day deadline allowed under the provisions of [section 482\(a\)](#), the assessor's practice of sending a notice of penalty 15 days prior to the filing deadline with incorrect language regarding penalties and the penalty abatement process may mislead property owners into believing they have less time to file the COS than what is allowed by statute.

Correctly implement the penalty abatement process in compliance with section 483(b).

The San Joaquin County Board of Supervisors adopted Resolution 01-825 pursuant to [section 483\(b\)](#), allowing for the automatic abatement of [section 482](#) penalties if the assessee files the COS with the assessor no later than 60 days after the date of notification of the penalty.

We examined several property records in which a penalty was applied for failure to file a COS. In many instances, the property owner returned the COS after the automatic abatement period had lapsed; however, the penalty was still abated by the assessor.

The assessor's practice of abating penalties when the COS is received after the 60 day filing deadline is not in compliance with [section 483\(b\)](#). Also, not applying applicable penalties could result in a loss of revenue.

¹³ During the time of our survey, [section 482\(a\)](#) allowed property owners 45 days to return a completed COS when requested by the assessor before penalties were applicable. 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.

¹⁴ 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.

California Land Conservation Act Property

Owners of lands in areas designated as [Agricultural Preserve](#) may enter into contracts with local government restricting the land to agricultural use. In exchange, the restricted land receives a preferential assessment treatment. Such lands are commonly referred to as CLCA properties (after the California Land Conservation Act of 1965) or Williamson Act properties (after the name of the author of the legislation).¹⁵

For the 2010-11 roll year, San Joaquin County had 6,172 parcels totaling approximately 476,900 acres encumbered by CLCA contracts, and 462 parcels totaling 62,630 acres restricted under Farmland Security Zone (FSZ) contracts, which are a more restrictive form of the CLCA contract. The total assessed value for restricted land and living improvements for the 2010-11 roll year was approximately \$2.3 billion.

Roughly 46,000 acres of the total restricted acreage was in nonrenewal status; an unknown number of contracts were cancelled since our prior survey. Our review of both nonrenewal and cancellation procedures found them compliant with statutory provisions and recommended practices. The assessor has also adopted the provision of [section 423.3](#), which provides that the assessed value of CLCA property shall not exceed a specified percentage of its factored base year value.

The assessor utilizes an automated computer system to value restricted properties in the county. The principal appraiser enters the income and expense information into the computer system, which then calculates the restricted values. We found that restricted values are determined using the correct capitalization rate, which includes components for property taxes and risk. The system also performs the required annual three-way value comparison.

The assessor correctly treats homesites and related homesite improvements as separate appraisal units when reviewing for declines in value and enrolls the lower of factored base year value or current market value in accordance with [section 428](#).

The assessor properly issues supplemental assessments on unrestricted portions of CLCA properties that undergo changes in ownership and for any completed new construction. Pursuant to [sections 75.14](#) and [52\(a\)](#), supplemental assessments are not issued for restricted land or living improvements.

We reviewed several CLCA and FSZ properties and found the assessor's procedures comply with most applicable statutes; however, we found several areas where improvement is needed.

¹⁵ For a detailed description of the scope of our review of California Land Conservation Act issues please refer to the California Land Conservation Act Property portion of the Assessment Practices Survey Program Master Document, available on the Board's website at [\[insert link\]](#).

RECOMMENDATION 10: Improve the valuation of CLCA properties by: (1) including all potential income available to the property when determining the value, (2) properly allocating restricted value between land and living improvements, (3) valuing commercial use portions of restricted property using the restricted rate, (4) using current market rents to estimate the income utilized in the valuation of restricted properties, and (5) properly calculating nonliving improvement expenses.

Include all potential income available to the property when determining the value.

After reviewing several properties under CLCA contract, we found the assessor is not recognizing all of the potential income available to the property. For example, we found that the assessor is not recognizing compatible use income from hunting available to property subject to a conservation easement that disallows agricultural use.

Property encumbered by a CLCA contract is assessed on the basis of its agricultural income producing ability and any compatible use income. In defining the income to be capitalized, [section 423\(a\)\(3\)](#) provides that revenue shall be the amount of money that the land can be expected to yield to an owner-operator from any use of the land permitted under the terms by which the land is enforceably restricted. [AH 521](#) provides that an appraiser may estimate an economic rent for a property not currently producing income if the property has income-producing capabilities. The income that can be generated and is attributable to the land must be capitalized in the manner specified for restricted properties.

By not including compatible use income in the valuation process, the assessor is undervaluing those open-space properties that have additional income from allowed compatible uses.

Properly allocate restricted value between land and living improvements.

The assessor correctly performs a three-way value comparison involving factored base year value, current market value, and restricted value. As noted previously, San Joaquin County has adopted [section 423.3](#), which provides that the assessed value may not exceed a specified percentage of the factored base year value. The percentages the county has adopted are 70 percent for prime lands and 90 percent for non-prime lands.

In cases where the [section 423.3](#) value is the lowest value in the three-way comparison, the assessor correctly enrolls that value. However, we found that the assessor is incorrectly allocating the [section 423.3](#) value between land and living improvements. The assessor enrolls the land value determined under section 423 on the land portion, removes that value from the total [section 423.3](#) value, and then enrolls the remainder of the [section 423.3](#) value on the living improvements.

[Section 423.3](#) allows a city or county by agreement to limit assessments of land restricted by the Williamson Act to a value no higher than a given percentage of the property's factored base year value as if unrestricted. This limitation is applicable to restricted improvements (both living and nonliving), as well as restricted land. Restricted improvements are subject to the same limiting percentage as the land on which they are located. In addition, [section 429](#) provides that when

valuing land restricted by the Williamson Act, "...fruit-bearing or nut-bearing trees and vines on the land and not exempt from taxation shall be valued as land. Any income shall include that which can be expected to be derived from such trees and vines and no other value shall be given such trees and vines for the purpose of assessment."

The assessor's practice of enrolling incorrect value allocations between land and living improvements for properties where the [section 423.3](#) value is determined to be the enrolled value could result in inaccurate direct assessments based on those incorrect values. In addition, proper value allocation is critical in the event an improvement is removed or destroyed.

Value commercial use portions of restricted property using the restricted rate.

We found that the assessor values sites for compatible commercial uses using the correct commercial land rent, but capitalizes the rent using a market-derived rate.

If a portion of a restricted property is used for a permitted compatible commercial use, such as a cold storage or produce-packing shed, a greenhouse for nursery stock, or a winery, the assessor must value that portion used for the commercial enterprise by capitalizing a commercial economic rent using the open-space capitalization rate. The estimate of the economic rent can be made either by using actual rents of comparable commercial sites or by multiplying the market value of comparable commercial land by a market-derived capitalization rate.

The assessor's practice of using a market-derived capitalization rate to value sites for permitted compatible commercial uses has resulted in incorrect assessments.

Use current market rents to estimate the income utilized in the valuation of restricted properties.

We found numerous instances where the assessor is using below-market cash rents to establish the income to be capitalized for restricted properties.

[Section 423](#) provides that the fair rent attributable to the land being valued shall be based upon rent actually received for the land by the owner and upon typical rents received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.

[Section 423](#) goes on to state where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes, or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown.

The assessor's practice of underestimating income has undervalued some properties under CLCA contract.

Properly calculate nonliving improvement expenses.

We found that when estimating improvement charges, the assessor makes the "return on" portion of the charge on a different basis than the "return of" portion. The assessor correctly determines the "return on" portion of the charge by multiplying a market-derived rate including a tax component by the replacement cost new of the improvements less depreciation (RCNLD). However, in determining the "return of" portion of the charge, the assessor uses the replacement cost new of the improvements (RCN) with a different rate of return from that used for the "return on" portion.

[AH 521](#) states that in addition to a fair "return on" an investment, a property owner must earn a sufficient amount to provide a "return of" the value of wasting assets. The handbook further provides that in the application of the sinking fund technique to estimate the "return of" the investment, the rate of return should be the same for both the "return on" and "return of" calculations.

The assessor's practice of incorrectly using a different rate of return for the "return on" and "return of" portions when determining improvement charges for nonliving improvements under the sinking fund method has resulted in incorrect valuations for properties that have living improvements.

Taxable Possessory Interests

A *possessory interest* is an interest in real property that exists as a result of a right to the possession of real property that is independent, durable, and exclusive of rights held by others in the real property, and that provides a private benefit to the possessor, except when coupled with ownership of a fee simple or life estate in the real property in the same person. (See [Property Tax Rule 20\(a\)\(2\)](#).) For example, when real property is leased, the lessee holds a possessory interest in the real property for the term of the lease. A *taxable possessory interest* is a possessory interest in publicly-owned real property. (See [Rule 20\(b\)](#).)

For the 2010-11 roll year, the assessor enrolled 476 taxable possessory interests, with a total assessed value of \$481,917,034. The majority of these taxable possessory interests are various private uses at the Port of Stockton and the Stockton Municipal Airport.

We reviewed a number of taxable possessory interest records. We commend the assessor for maintaining an effective database to track terms and conditions of taxable possessory interests; however, we did find two areas for improvement.

RECOMMENDATION 11: Improve the taxable possessory interest program by:
(1) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, and
(2) properly issuing supplemental assessments.

Periodically review all taxable possessory interests with stated terms of possession for declines in value.

We reviewed several taxable possessory interests with stated terms of possession. We found several instances where taxable possessory interests were not adjusted for declines in value. Instead, the assessor enrolled the factored base year value each year.

[Rule 21\(d\)\(1\)](#) states, in part, "The stated term of possession shall be deemed the reasonably anticipated term of possession unless it is demonstrated by clear and convincing evidence that the public owner and the private possessor have reached a mutual understanding or agreement, whether or not in writing, such that the reasonably anticipated term of possession is shorter or longer than the stated term of possession. If so demonstrated, the term of possession shall be the stated term of possession as modified by the terms of the mutual understanding or agreement."

[Rule 21\(a\)\(6\)](#) defines the stated term of possession for a taxable possessory interest as of a specific date as "...the remaining period of possession as of that date as specified in the lease, agreement, deed, conveyance, permit, or other authorization or instrument that created, extended, or renewed the taxable possessory interest, including any option or options to renew or extend the specified period of possession if it is reasonable to assume that the option or options will be exercised." Therefore, the stated term of possession declines each year. This may or may not have a material effect on the market value of the possessory interest. Thus, absent clear and convincing evidence of a mutual understanding or agreement as to a shorter or longer term of possession, the assessor must estimate the current market value of the taxable possessory interest on lien date based on the remaining stated term of possession, compare this value to the factored base year value, and enroll the lower of the two values.

Although the assessor is not required to reappraise all properties each year, the assessor should develop a program to periodically review assessments of long term taxable possessory interests with stated terms of possession to ensure declines in value are consistently recognized. Failure to periodically review taxable possessory interests for possible declines in value may cause the assessor to overstate the taxable value of a taxable possessory interest.

Properly issue supplemental assessments.

We discovered taxable possessory interests where the assessor failed to issue a supplemental assessment upon a change in ownership. We also found taxable possessory interests where the assessor incorrectly calculated the supplemental assessment upon a change in ownership by offsetting the fair market value against the prior value on the roll.

[Section 61\(b\)](#) provides that the creation, renewal, extension, or assignment of a taxable possessory interest is a change in ownership. [Section 75.11](#) provides that there shall be a supplemental assessment following a change in ownership or completion of new construction. According to [Assessors' Handbook Section 510](#), *Assessment of Taxable Possessory Interests*

(AH 510), when a supplemental assessment is issued due to a change in ownership, the supplemental assessment amount for the newly created taxable possessory interest should be based on its fair market value without offset for a prior value on the regular assessment roll when one taxable possessory interest is terminated during an assessment year and a second (but distinct) taxable possessory interest is created involving the same land and improvements during the same assessment year.¹⁶

The assessor's failure to properly issue supplemental assessments results in a loss of revenue.

Mineral Property

Mineral properties 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*.

Mining Property

According to the United States Geological Service, there are eleven mining properties located in San Joaquin County. The assessor's Special Properties Section of the Valuation Division appraises these properties. While we noted that the assessor is in the process of implementing new procedures to properly assess mining properties, we found the following area still in need of improvement.

RECOMMENDATION 12: Annually determine reserves and their value pursuant to [Rule 469](#).

We found that the assessor does not make adjustments to the base year quantity of reserves for any reason other than depletion. Annual reports filed by the taxpayer include information regarding reserve estimates, and these reports are a good source of information for checking the assessor's reserve estimates against the taxpayer's estimates. If the assessor questions the reliability of this data or chooses to ignore it, there should be documentation or a detailed explanation in the appraisal file. The assessor makes adjustments to the base year value of the mineral rights to account for production in the prior year (depletion); however, no other adjustment is made. There is no reconciliation of the differences in the assessor's reserve estimates with the changes reported by the taxpayer. In one file, the taxpayer had even specifically noted that there was a change in reserves attributable to a re-evaluation of the geological information available.

Over the economic life of a mineral property, estimates of reserves will change. These changes are the result of depletion, new discoveries, and changes in economics. [Rule 469\(e\)\(2\)\(A\)](#) requires that the assessor annually determine reserves and their current market value so that the value of additions or deletions unrelated to depletion can be reflected in the adjusted base year value. After determining the current reserves of the property, they are compared to the prior year's reserve base. Changes for other than depletion should be made to the adjusted base year value according to the procedure laid out in [Rule 469\(e\)\(1\)\(B\)](#).

¹⁶ [Assessors' Handbook Section 510](#), *Assessment of Taxable Possessory Interests*, December 2002, pages 59-60.

There is no documentation in the appraisal records of the assessor reviewing the reserve estimates, either his own or those of the operator, or of determining the current market value of these reserves. Taxpayers are required to annually file production reports with the assessor detailing reserves, volumes produced and sold, and details regarding operating costs.

Accurate reserve determinations are critical to ensure the proper value for the property is assessed. Failure to annually determine reserves and their value may cause an underassessment and loss of revenue.

Audit Program

Statutes not only authorize the county assessor to conduct audits, but also require audits in certain circumstances. [Sections 441\(d\), 469, and 470](#), and Property Tax Rules [191, 192, and 193](#) provide the county assessor with the general authority to review an assessee's records. Pursuant to [section 469\(a\)\(1\)](#), a county assessor is required to annually conduct a "significant number of audits," as defined.

We found a weakness in the assessor's policy in presenting waivers to property owners when it is anticipated that the audit will not be completed within the statutory deadline.

RECOMMENDATION 13: Request a waiver of the statute of limitations when an audit will not be completed in a timely manner.

The assessor is currently requesting waivers of the statute of limitations from taxpayers only when he anticipates an audit will not be completed in a timely manner and differences will be discovered. [Section 532](#) provides that when the assessor discovers property that 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, 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. We reviewed a number of examples where a lack of a waiver resulted in the loss of an escape assessment due to the expiration of the statute of limitations. In each of these examples, the assessor complied with [section 532](#) by not correcting the roll to reflect the audit differences, but tax revenue was lost. Staff productivity and health issues have contributed to the lack of obtaining waivers on all audits that will not be completed timely.

A waiver of this nature protects the taxpayer during the audit process should an overassessment be discovered and allows the assessor to enroll an escape assessment if a reporting deficiency is found. By failing to obtain waivers, the assessor may allow taxable property to escape assessment should the statute of limitations expire prior to the completion of the audit. Consequently, revenue could be permanently lost.

Audit Quality

We sampled several recently completed audits and found that, overall, the assessor's audit quality is consistent and effectively managed. However, there are two areas where we found room for improvement.

RECOMMENDATION 14: Improve the audit program by: (1) using a comprehensive audit checklist as a standard component of all audits, and (2) enrolling all escape assessments and overassessments discovered during the course of an audit.

Use a comprehensive audit checklist as a standard component of all audits.

During our review of sampled audits, we found frequent examples where we could not determine the scope of the assessor's audit investigations because an audit checklist was not included in the work papers. The assessor's audit program does not include the routine use of a comprehensive audit checklist indicating the areas of investigation.

An audit checklist can serve to remind auditor-appraisers of the various issues to research and procedures to follow during an audit. It may also provide an outline of topics and pertinent issues covered in the audit. Furthermore, it serves as a useful research tool when preparing for subsequent audits of the same entity. Most importantly, without a comprehensive audit checklist, it is difficult for a reviewer to know what topics were covered during the course of the audit and whether the findings are sufficiently supported.

Enroll all escape assessments and overassessments discovered during the course of an audit.

The assessor typically does not enroll escape assessments that amount to differences reflecting five percent or less of the original value of audited business property. [Section 531.9](#) allows a county board of supervisors to adopt an ordinance to prohibit the assessor from making an escape assessment of an appraisal unit where the assessment would result in an amount of taxes due which is less than the cost of assessing and collecting the tax; however, San Joaquin County does not have such an ordinance in place. While the assessor's practice may be expedient, the assessor does not have the authority that would allow him to fail to enroll escaped property discovered by audit.

[Section 531](#) specifically states, "If any property belonging on the local roll has escaped assessment, the assessor shall assess the property on discovery at its value on the lien date for the year for which it escaped assessment." Furthermore, [section 469](#) provides that if the result of an audit discloses property subject to an escape assessment, the assessee is entitled to appeal the assessment of all the property at the location of the trade, profession, or business. The assessor's failure to enroll escapes makes it very difficult for the assessee to exercise that right of appeal.

The current arbitrary minimum audit enrollment policy fails to meet the assessor's obligation to assess all property subject to taxation.

Business Property Statement Program

Revenue and Taxation Code [section 441](#) generally requires each person owning taxable personal property having an aggregate cost of \$100,000 or more to annually file a business property statement (BPS) with the assessor; other persons must file a BPS if requested by the assessor. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

We reviewed all major aspects of the assessor's BPS program, including processing procedures, use of Board-prescribed forms, application of penalties, real property division coordination, and record storage and retention. In addition, we reviewed several recently processed BPSs. We found that all statements sampled that were accepted by the assessor evidenced the proper usage of Board-prescribed forms, were completed in sufficient detail, and were properly signed. However, we did find two areas for improvement.

RECOMMENDATION 15: Improve the business property statement (BPS) program by: (1) properly valuing and assessing landlord-owned personal property in apartments, and (2) valuing taxable business property in accordance with section 501 when a taxpayer fails to file a BPS or files late.

Properly value and assess landlord-owned personal property in apartments.

We found cases where the assessor used a pre-determined allocation of value for apartment personal property instead of relying on costs reported on property statements.

Landlord-owned personal property in apartment complexes used in the course of a business is taxable. Such personal property includes, but is not limited to, refrigerators, freestanding electrical stoves, exercise equipment, pool equipment, laundry equipment, maintenance equipment, office furniture, draperies, and common area furniture.

Information supplied on BOE-571-R, *Apartment House Property Statement*, should be the starting point for the assessment of apartment personal property. Because the historical information on the property statement will reflect variations in the age, quality, and quantity of personal property from one apartment property to the next, using this information to develop a current value estimate will be more accurate and equitable than using a fixed amount per apartment unit or an arbitrary value allocation. The assessor's current valuation methodology rests upon unreliable indicators of value and likely results in inaccurate assessments of personal property in apartments.

Value taxable business property in accordance with section 501, when a taxpayer fails to file a BPS or files late.

Our review included verifying the assessor's procedures for processing late and non-filed statements. We found that when the business owner fails to file a BPS or when the statement is submitted late, the assessor applies a pre-determined escalation rate of 10 percent to the previous year's enrollment inclusive of any previously applied penalties. A 10 percent penalty is then applied to this escalated assessment.

If an assessee does not file a property statement by May 7, [section 501](#) provides that the assessor shall estimate a value based on available information and add a 10 percent penalty to that estimated assessed value. By escalating the previous year's enrollment by a pre-determined rate, the assessor is enrolling an arbitrarily determined value with no supporting basis. Any estimated assessment should be supported by available information in conformance with [section 501](#).

The assessor's current calculation methodology likely leads to erroneous value conclusions and leads to improper application of the late or non-filing penalty provided for in [section 463](#).

Business Equipment Valuation

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

The assessor uses standardized industry codes included in his *Equipment Category List* to classify business property accounts by industry type. We reviewed the written procedures and standardized valuation policies related to business property valuation and found them to be current and sufficiently detailed.

Application of BOE Recommended Index Factors

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. We found the assessor's application of BOE recommended valuation tables to be both consistently and accurately applied.

Mobile Construction and Agricultural Equipment Valuation Factors

We reviewed the assessor's factor tables related to this issue and found the BOE recommended cost index and depreciation tables to be correctly compiled.

Classification

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 two areas in need for improvement concerning the way the assessor classifies and values taxable business property.

RECOMMENDATION 16: Properly classify and value taxable business property by:
(1) correctly classifying machinery and equipment reported on the business property statement (BPS), and (2) valuing structural improvements reported on the BPS in the same manner as other real property structures.

Correctly classify machinery and equipment reported on the business property statement (BPS).

We found the assessor has made improvements to the valuation program by standardizing the fixed machinery and equipment proration estimates for some industries, but does not properly prorate machinery and equipment reported in bulk for all commercial and industrial operations.

We found a number of instances where machinery and equipment reported on Schedule A of the BPS was assessed entirely as personal property, even when it was highly likely that fixed equipment was included in the reported cost. Appraisal staff often does not classify any reported machinery and equipment as fixtures.

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/or personal property. It is also significant because of the assessment differences between real property and personal property. Those 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, (4) fixtures are a separate appraisal unit when measuring declines in value, and (5) fixtures normally valued as a separate appraisal unit are not subject to supplemental assessment.

For assessment purposes, machinery and equipment costs reported on Schedule A of the BPS may represent either personalty or fixtures, or both. A fixture is an item of tangible property that was originally personalty, but is physically or constructively annexed to realty with the intent that it remain annexed indefinitely.

The assessor can use specific identification or estimation to allocate machinery and equipment costs reported on the BPS Schedule A between personalty and fixtures. For estimation, the assessor could establish percentages based on a physical inspection or by using percentages for the specific types of businesses. The assessor can adjust that estimate based on an audit, physical inspection, or new data.

The assessor's current proration practices are inconsistent and result in both inaccurate and inequitable treatment of similarly installed taxable property.

Value structural improvements reported on the BPS in the same manner as other real property structures.

We found that the assessor applies business equipment depreciation schedules to structural improvements reported under Column 1, Schedule B of the BPS. Structural improvements made by the secured property owner should be assessed in the same manner as other real property

structures enrolled to the parcel. A base year value should be established and, for subsequent roll years, these costs should be treated the same as other structural improvements owned by the secured property owner.

By valuing these reported properties in a manner similar to business personal property and trade fixtures rather than real property structures, the assessor may be underassessing this taxable property. This, in effect, would produce a significant valuation difference between similar structural improvements being assessed on competing real property parcels. If these same structural improvements that were valued in a similar manner to business personal property and trade fixtures were instead valued as real property structures, the structural improvements would probably not be depreciated at all, but would more than likely increase in taxable value each year due to the application of the inflation factor in accordance with [article XIII A](#). The resulting effect of the assessor's current practice is a lack of consistent treatment of similar taxable property.

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APPENDIX A: STATISTICAL DATA

Budget, Staffing and Workload Data

As of the date of our survey, the San Joaquin County Assessor's Office had a full-time budgeted staff of 96 positions, 4 of which were vacant. This included the assessor, assistant assessor, department information systems manager, 2 principal appraisers, 29 appraisers, 11 auditor-appraisers, 1 chief cadastral technician, 1 transfer technician supervisor, 1 office supervisor, 1 exemptions supervisor, 12 property technicians, 5 cadastral technicians, 3 computer analysts/technicians, 27 support staff.

Table 1: Assessor's Gross Budget

The assessor's budget has grown from \$9,006,321 in 2006-07 to \$10,001,047 in 2010-11. The following table identifies the assessor's budget over this period of time:

BUDGET YEAR	GROSS BUDGET	CHANGE	PERMANENT STAFF
2010-11	\$10,001,047	1.2%	96
2009-10	\$9,881,082	11.5%	101
2008-09	\$8,860,549	-3.4%	104
2007-08	\$9,175,027	1.9%	106
2006-07	\$9,006,321	8.7%	106

Table 2: Assessment Roll

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

	PROPERTY TYPE	ENROLLED VALUE
Secured Roll	Land	\$15,368,005,615
	Improvements	\$35,719,095,364
	Personal Property	\$1,330,030,784
	Total Secured	\$52,417,131,763
Unsecured Roll	Land	\$113,331,278
	Improvements	\$1,335,306,418
	Personal Property	\$2,145,030,077
	Total Unsecured	\$3,593,667,773
Exemptions¹⁷		(\$2,087,783,352)
	Total Assessment Roll	\$53,923,016,184

Table 3: Change in Assessed Values

The next table sets forth the changes in assessed values over recent years:¹⁸

ROLL YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2010-11	\$53,923,016,000	-3.8%	-1.9%
2009-10	\$56,079,725,000	-10.6%	-2.4%
2008-09	\$62,710,145,000	-1.0%	4.7%
2007-08	\$63,333,031,000	9.2%	9.6%
2006-07	\$57,978,496,000	17.5%	12.3%

¹⁷ The value of the Homeowners' Exemption is excluded from the exemptions total.

¹⁸ State Board of Equalization Annual Report, Table 7.

Table 4: Assessment Appeal Workload

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 BOE has adopted Rules 301 through 326 to regulate the assessment appeals process. The following table illustrates the appeal workload over recent years¹⁹:

YEAR	2009-10	2008-09	2007-08	2006-07	2005-06
Appeals Filed	3,501	5,826	3,195	648	347
Appeals Carried Over From Prior Year	4,829	583	572	231	345
Total Appeals Workload	8,330	6,409	3,767	879	692
Resolution:					
Withdrawn	785	408	591	223	295
Stipulation	1,691	664	118	36	98
Appeals Reduced	11	9	4	0	11
Appeals Upheld	30	9	5	0	2
Appeals Increased	0	0	2	0	0
Other Determination*	1,375	476	263	48	55
Total Resolved	3,892	1,566	983	307	461
To Be Carried Over**	4,438	4,843	2,784	572	231

* 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.

¹⁹ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities* for years 2005-06 through 2009-10. It should be noted that the number of "Appeals Carried Over From Prior Year" reported for years 2008-09 and 2009-10 were reported incorrectly and do not match the number of appeals "To Be Carried Over" as reported in the prior year.

Table 5: Workload Data

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 [70](#) defines new construction as any addition to real property since the last lien date, and any alteration since the last lien date that constitutes a major rehabilitation thereof of that converts the property to a different use.

Section [50](#) requires the assessor to establish a base year value for real property upon a change in ownership or the completion of new construction; a property's base year value is its fair market value on the date of change in ownership. The assessor's primary means of discovering properties having changed ownership is to review deeds and other documents recorded with the recorder's office. New construction is discovered primarily by reviewing building permits.

Section [51](#) provides that, once a new base year value has been established, that value (adjusted for inflation) sets a ceiling on the property's assessed value. If, on a subsequent lien date, the property's market value is less than its base year value, then the market value shall be enrolled for that assessment year. Such an assessment is known as a decline-in-value assessment.

The following table shows the assessor's workload in the areas of change in ownership, new construction, and decline-in-value assessments, as well as assessment appeals for recent years:

Workload Description	2009-10	2008-09	2007-08	2006-07	2005-06
Changes in Ownership	30,530	34,572	25,645	22,191	25,778
New Construction	1,520	2,371	3,506	4,395	5,737
Declines In Value	97,864	105,575	58,465	23,262	1,758
Assessment Appeals	3,501	5,826	3,195	648	347

Table 6: Claims for Exclusions

Section [63.1](#) excludes from the definition of "change in ownership" the purchase or transfer, on or after November 6, 1986, of the principle residence and the first one-million dollars (\$1,000,000) of other real property between parents and children (also excludes certain transfers from grandparents to their grandchildren) when a claim is timely filed. Section [69.5](#) allows qualified homeowners who are 55 years of age or older, or who are severely and permanently disabled, to transfer the base year value of their principal residence to a replacement dwelling purchased or newly constructed within the same county. Section [69.5](#) also allows counties to adopt ordinances expanding the benefits to include intercounty transfers. San Joaquin County has not adopted such an ordinance. The following table represents filed section [63.1](#) and [69.5](#) claims for recent years:

YEAR	SECTION 63.1 CLAIMS	SECTION 69.5 CLAIMS
2009-10	1,152	2
2008-09	889	72
2007-08	1,410	107
2006-07	1,962	179
2005-06	2,068	121

Table 6: Business Property Statement Workload

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.

The following table displays the assessor's workload of secured and unsecured BPSs and assessments for the 2010-11 assessment roll:

TYPE OF PROPERTY STATEMENTS	TOTAL	SECURED VALUE	UNSECURED VALUE	TOTAL ASSESSED VALUE
General Business	9,957	\$2,206,179,892	\$2,283,540,287	\$4,489,720,179
Agricultural	1,982	\$150,362,251	\$126,829,213	\$277,191,464
Apartments	1,882	\$39,534,342	\$9,793,714	\$49,328,056
Financial	182	\$9,124,905	\$23,900,006	\$33,024,911
Leased Equipment	1,617	\$5,657,363	\$300,849,578	\$306,506,941
Direct Billing	2,451	\$8,060,197	\$26,420,228	\$34,480,425
Totals	18,071	\$2,418,918,950	\$2,771,333,026	\$5,190,251,976

APPENDIX B: COUNTY-ASSESSED PROPERTIES DIVISION SURVEY GROUP

Chief

Dean Kinnee

Survey Program Director:

Benjamin Tang

Principal Property Appraiser

Survey Team Supervisor:

Pamela Bowens

Supervising Property Appraiser

Survey Team Leader:

Glenn Danley

Senior Specialist Property Appraiser

Survey Team:

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Ladeena Ford

Business Taxes Specialist II

Margie Wing

Senior Specialist Property Appraiser

Tammy Aguiar

Associate Property Appraiser

Angie Berry

Associate Property Appraiser

Michael Brennan

Associate Property Appraiser

Julie Warren

Associate Property Appraiser

Jeff Arthur

Associate Property Auditor-Appraiser

Paul Stueber

Tax Technician II

APPENDIX C: RELEVANT STATUTES AND REGULATIONS

Reference	Description
<i>Government Code</i>	
§ 15640	Survey by board of county assessment procedures.
§ 15641	Audit of records; appraisal data not public.
§ 15642	Research by board employees.
§ 15643	When surveys to be made.
§ 15644	Recommendations by board.
§ 15645	Survey report; final survey report; assessor's report.
§ 15646	Copies of final survey reports to be filed with local officials.
<i>Revenue and Taxation Code</i>	
§ 75.60	Allocation for administration.
<i>Title 18, California Code of Regulations</i>	
Rule 370	Random selection of counties for representative sampling.
Rule 371	Significant assessment problems.

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

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