

**Amend Revenue and Taxation Code Sections 830 and 862 of the Property Tax Law to expressly provide in statute that state assessee penalties for failure to timely provide information may be partially abated. (Housekeeping)**

**Source: Honorable Betty T. Yee**

**Existing Law**

Under existing law, state assessees must annually provide certain information to the Board of Equalization (BOE). Failure to provide this information results in the application of a penalty. The calculation of the penalty varies depending upon the type of information found to be deficient.

Any penalty imposed on a state assessee for failure to provide information is capped at \$20,000,000 of assessed value which, at the general 1% tax rate, means a maximum penalty of \$200,000.

Under existing law, where an assessee establishes to the satisfaction of the BOE that the failure to file the property statement or any of its parts within the time required was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the BOE may order the penalty abated if the assessee files a written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

The existing statutory language does not expressly authorize the BOE to abate the penalty in part and the law is silent on the matter. Webster's defines "abate" to mean "to make less in amount, degree, force, etc." Because Sections 830 and 862 do not expressly address partial abatement, this has caused uncertainty and confusion for property owners and tax practitioners who address this issue infrequently.

**This Proposal**

This legislative proposal would expressly provide that a penalty may be abated in whole or in part in accord with the BOE's current administrative practice and serves to provide clarity to property owners and tax practitioners.

*Section 830 of the Revenue and Taxation Code is amended to read:*

830. (a) If the request of the board is mailed before the lien date as defined in Section 722, the property statement shall be filed with the board by March 1, and shall be in such detail as the board may prescribe.

(b) If the request of the board is mailed on or after the first day of January following the lien date, the property statement shall be filed with the board within 60 days after the request is mailed.

(c) Except as hereinafter provided, if any person fails to file the property statement, in whole or in part, by March 1, or by that later date to which the filing period is extended pursuant to subdivision (b) or Section 830.1, a

penalty shall be added to the full value of the assessment of so much of the property as is not timely reported as follows:

(1) For any part of the property statement relating to the development of the unit value of operating property, the penalty shall be 10 percent of the unit value.

(2) For any part of the property statement, not relating to the development of the unit value of operating property, that lists or describes specific operating property, the penalty shall be 10 percent of the allocated value of the property, which penalty shall be added to the unit value.

(3) For any part of the property statement that lists or describes specific nonunitary property, the penalty shall be 10 percent of the value of the property.

(4) If the failure to timely file a property statement is due to a fraudulent or willful attempt to evade the tax, a penalty of 25 percent of the assessed value of the estimated assessment shall be added to the assessment. A willful failure to file a property statement as required by Article 5 (commencing with Section 826) shall be deemed to be a willful attempt to evade the tax.

(5) No penalty added pursuant to paragraph (1), (2), (3), or (4) may exceed twenty million dollars (\$20,000,000) of full value. In addition, if a penalty has been added pursuant to paragraph (1), (2), or (3), if a claim for refund seeking the recovery of that penalty has been filed by the state assessee contesting the penalty within three months of the due date of the second installment, and the state assessee initiates an action in the superior court within one year of the filing of the claim for refund, the state assessee is not subject to any further penalties on subsequent assessments for failure to comply with any subsequent request seeking information or data with respect to the same issue as set forth in the claim for refund filed within the time limits set forth above, until the assessment year after a final decision of the court, and then only with respect to a failure to comply with a request for information with respect to assessments after a final decision of the court. For purposes of this paragraph, "same issue" means the type of information that is the subject of the disputed request for information.

(d) Any person who subscribes to the board's tax rate area change service and who receives a change mailed between April 1 and May 1, shall file a corrected statement no later than May 30 with respect to those parts of the property statement that are affected by the change.

If that person receives a change mailed after May 1, a corrected statement shall be filed no later than the 60th day following the mailing of that change.

(e) Penalties incurred for filings received after June 30 may be included with the assessments for the succeeding fiscal year.

(f) If the assessee establishes to the satisfaction of the board that the failure to file the property statement or any of its parts within the time

required by this section was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, in whole or in part, provided the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

*Section 862 of the Revenue and Taxation Code is amended to read:*

862. When an assessee, after a request by the board, fails to file a property statement by the date specified in Section 830 or files with the board a property statement or report on a form prescribed by the board with respect to state-assessed property and the statement fails to report any taxable tangible property information accurately, regardless of whether or not this information is available to the assessee, to the extent that these failures cause the board not to assess the property or to assess it at a lower valuation than it would have if the property information had been reported accurately, the property shall be assessed in accordance with Section 864, and a penalty of 10 percent shall be added to the additional assessment. If the failure to report or the failure to report accurately is willful or fraudulent, a penalty of 25 percent shall be added to the additional assessment. If the assessee establishes to the satisfaction of the board that the failure to file an accurate property statement was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, in whole or in part, provided that the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.