

## **190.0000 ASSESSMENT APPEALS BOARD**

*See Assessment Appeals  
County Board of Equalization  
Situs*

190.0005 **Aircraft.** C 4/20/90. Deleted 2000.

[190.0008](#) **Allocation of Value.** A local assessment appeals board has jurisdiction to hear supplemental assessment and base year value appeals involving the proper allocation of a total property value between land and improvements for applications filed within the time limitations periods of Revenue and Taxation Code section 1605(b) for supplemental assessments or Revenue and Taxation Code section 80 for base year value appeals. C 1/4/99.

[190.0011](#) **Application.** An appeal of only a supplemental assessment does not provide the assessor the opportunity to put an assessment of the same property on the regular roll before the appeals board. The application defines the assessment in issue.

The provisions of Rule 324(b) approves an equalization board's review of the value of an entire appraisal unit when a taxpayer appeals only a portion of the unit's value. It does not authorize the review of a value of a separate assessment of the same property. C 2/24/89.

[190.0012](#) **Application.** The sufficiency of the property description contained in an application for reduction in assessment presents a question of fact to be decided by the assessment appeals board in the exercise of its authority to determine its own jurisdiction. C 12/7/93.

[190.0013](#) **Application.** An application for reduction in assessment constitutes a claim for refund only if it is specifically so stated to be. Failure to claim a refund as part of an application does not prevent the filing of such a claim within four years of the date on which taxes were paid or as otherwise provided in Revenue and Taxation Code section 5097. C 10/2/85.

[190.0014](#) **Application.** An assessment appeals application lacking an authorized signature of a corporate officer is incomplete and invalid, and pursuant to Property Tax Rule 309, the two-year period within which to hear applications does not apply. However, the rule also provides that an applicant shall not be denied a timely hearing for failure to file a timely and complete application unless the appeals board, within two years of filing, notifies the applicant in writing of such denial. A letter from the assessment appeals board to the applicant providing notice of the defect and giving the applicant the opportunity to correct it constitutes notice that the application will be considered invalid and will not be heard until such authorization is submitted. Where the appeals board received the authorization only about one month before the expiration of the two-year period, it acted properly by requiring a waiver before reopening the application. Alternatively, the application would have remained closed. C 7/23/97.

[190.0015](#) **Application.** A county can modify the Board-prescribed assessment appeals application by adding a request for the applicant to sign the application in a particular color of ink, because such a request does not conflict with the prescribed instructions or with any statutes or regulations. C 4/19/2000.

[190.0016](#) **Application.** Government Code section 16.5 authorizes the use of and prescribes guidelines for electronic or digital signatures "in any written communication with a public entity...in which a signature is required or used." The Revenue and Taxation Code and Board property tax rules do not prohibit use of such signatures and, therefore, an assessment appeals board clerk has discretion to permit an electronic or digital signature,

provided that the clerk believes the signature complies with the requirements of Revenue and Taxation Code section 103 and Property Tax Rule 305 governing the contents of a valid application. C 12/8/2000.

**190.0020 Application Filing Date.** C 7/26/79. Deleted 2002.

**190.0021 Application Filing Fee.** There exists no express statutory authority for a county board of supervisors to adopt a rule requiring payment of a deposit for an assessment appeals hearing. The fact that there are statutorily authorized fees for other services in connection with the appeals process indicates that the Legislature viewed fees and other charges as a matter of statewide concern and intended to circumscribe counties' authority to act in this area. Thus, a county has no authority to adopt a rule requiring payment of a deposit. Further, the rulemaking authority conferred on counties by section 16 of article XIII of the California Constitution is limited to the adoption of rules of notice and procedures even when they do not involve matters of statewide concern. C 11/30/2001.

**190.0025 Bankruptcy Automatic Stay Exception.** The filing of a bankruptcy petition triggers an automatic stay or suspension of commencement or continuation of a judicial, administrative, or other action against the debtor as well as any action to recover a pre-petition claim or debt pursuant to 11 U.S.C section 362(a)(1). Among the specified exceptions to the automatic stay requirement, section 362(b)(9)(D) provides an exception for "the making of an assessment for any tax..." In *Delpit v. Commissioner* (9<sup>th</sup> Cir.1994) 18 F.3d 768, the Ninth Circuit Court of Appeals held that a property tax assessment appeal is a continuation of the comprehensive tax assessment process in California. Thus, as a step in the tax assessment process, an assessment appeal is an exception to the automatic stay as provided by subdivision (b)(9)(D). C 8/29/2003.

**190.0030 Changing Rolls.** An assessment appeals board does not have the power to move a possessory interest assessment from the unsecured roll to the secured roll. Revenue and Taxation Code section 107, which authorizes boards of supervisors to place possessory interests on the secured roll, applies to boards of supervisors sitting as boards of supervisors, not as assessment appeals boards. The authority of an assessment appeals board is limited to correction of assessor's clerical errors and errors in judgment as to value. C 11/9/79.

**190.0033 Decision.** An applicant's failure to file an amended application, after notice of its deficiency, until a month before the expiration of the two-year period in which an appeals board must render its decision provides a basis for the appeals board's request of the applicant for a waiver of the two-year statute of limitation before consideration of the amended application. There is no statute or rule that prohibits an appeals board's acceptance and action on a waiver filed more than two years after the filing of the original, incomplete application for hearing. C 7/23/97.

**190.0034 Disaster Relief.** An assessment appeals board has jurisdiction to hear and decide an application filed by a property owner appealing the assessor's denial of a claim for the transfer of a base year value for real property damaged or destroyed by disaster under Revenue and Taxation Code section 69. An application may be filed during the regular filing period for the year in which the new base year value is established for the replacement property or in any of the three succeeding years. C 10/20/2004.

**190.0035 Duty to Equalize Assessments.** An Assessment Appeals Board is charged with the assessment equalization function, and once a Board of Supervisors acts to establish such a board, the power to equalize assessments passes solely to the Assessment Appeals Board.

Such is constitutionally mandated in section 16 of article XIII of the State Constitution. C 6/10/80.

**190.0037 Evidence.** An individual appeals board member may not introduce comparable sales evidence at an appeals hearing. The property tax statutes and regulations require appeals board members to decide applications based solely on evidence presented by the parties or obtained by the board acting as a body. Therefore, if an appeals board member wishes to hear or to obtain evidence not provided by the parties, he or she must make a motion to the appeals board. If the appeals board approves the motion, then pursuant to Revenue and Taxation Code section 1609.4, it may issue subpoenas or take other action necessary to obtain the evidence or testimony. C 2/2/99.

**190.0038 Final Determination.** The two-year period in Revenue and Taxation Code section 1604(c), which provides that a board must make a final determination on an application for reduction within two years or the applicant's opinion of value shall be used for the levy of taxes, should commence with the actual date of filing of each individual application. C 7/21/95.

**190.0039 Final Determination.** An assessment appeals board may postpone indefinitely the hearing on an assessment appeal by mutual agreement in writing or on the record with the taxpayer, despite the assessor's objection. C 6/21/96.

190.0040 **Hearing Officer.** C 2/23/87. Deleted 1999.

**190.0041 Final Determination.** An assessment appeals board's hearing and decision on a hearing officer's recommendation must be completed within two years to comply with Revenue and Taxation Code section 1604(c). If the appeals board fails to hear and to make a final determination within the prescribed two-year period, then the assessor is required to enroll the applicant's opinion of value, regardless of whether the applicant requests relief. A taxpayer's claim for refund of taxes resulting from such relief must be filed within four years of the payment of the taxes sought to be refunded pursuant to Revenue and Taxation Code section 5096. C 1/18/2001.

**190.0043 Hearing Officer.** Under the requirements of Revenue and Taxation Code section 1637(a)(3), only a taxpayer, and not the county board of equalization or the assessor, may request that an assessment appeals hearing be held before a hearing officer pursuant to section 1636. Any use of a hearing officer to preside over a property tax-related hearing without the taxpayer's consent does not comply with the requirements of section 1637(a)(3). C 6/18/2008.

**190.0044 Interpretation of Exemption Terms.** An assessment appeals board does not have the jurisdiction to interpret Property Tax Rule 138 (Exemption for Aircraft Being Repaired, Overhauled, Modified or Serviced) by defining the terms used therein because such a determination would constitute a hearing on a application appealing a denial of a qualification for an exemption. C 6/29/2004.

**190.0045 Jurisdiction.** An assessment appeals board has authority to determine the proper classification of land based on its use under provisions of the Williamson Act. The board's jurisdiction is particularly evident in situations involving enforceable restrictions which by law impact property values. C 7/8/91.

**190.0048 Jurisdiction—Base Year Value.** In *Sunrise Retirement Villa et al. v. Dear* (1997) 58 Cal.App.4th 948, the court held that an assessment appeals board has jurisdiction to hear an appeal to correct an alleged error in setting a base year value, not involving a judgment of value, in any year in which the error is discovered, if the assessor declines to make the

correction pursuant to Revenue and Taxation Code section 51.5. The board's jurisdiction to hear such base year value appeals is not limited to the four-year statute of limitations in Revenue and Taxation Code section 80 subdivision (a)(3); but in order to trigger the application of section 51.5, a property owner must present to the assessor credible evidence of an error not involving value judgment, as opposed to an opinion, for any such claim. C 1/6/98.

190.0051 **Jurisdiction to Hear Applications for Exemption.** C 12/20/91. Deleted 2000.

[190.0050](#) **Jurisdiction to Hear Applications for Reassessment.** The local board of equalization itself has the ultimate responsibility to rule on the question of its own jurisdiction. However, it would be proper if the board established for the clerk certain specific guidelines for determining which applications were untimely filed, and authorized the clerk to notify such applicants of such fact and advise them that they may request a hearing pertaining only to the issue of the board's jurisdiction. OAG 3/30/76 (No. CV 75-344, Vol. 59, p. 182).

[190.0052](#) **Jurisdiction to Hear Application for Reassessment.** A local assessment appeals board has jurisdiction to hear an appeal involving the property allocation of a total property value between land and improvements. If special assessments are at issue, an appeal involving the proper allocation of a total value should be allowed. If reallocation of a total value would serve no purpose, however, hearing should be denied. Also, a local board has jurisdiction to decide legal issues when such a decision is necessary to reach a conclusion on a valuation issue. C 1/22/80; C 3/28/80.

[190.0053](#) **Jurisdiction to Hear Situs of Aircraft.** No court has specifically ruled on whether or not a general aircraft situs question can be heard by an assessment appeals board. However, since a determination as to situs is dependent upon factual matters, hearing before an appeals board appears appropriate. Moreover, a hearing would avoid any question concerning exhaustion of administrative remedies upon judicial review. Conflicts in evidence and testimony demonstrating aircraft, location, and time duration should be resolved by reference to the flight and maintenance logs for the subject aircraft. C 4/20/90.

[190.0054](#) **Jurisdiction to Increase Assessment.** Once filed, an application for reduction cannot be voluntarily withdrawn by the applicant. The assessment appeals board retains jurisdiction, and, after notice and an opportunity to be heard, may increase the value on its own motion even if the assessor has agreed with the applicant that a reduction should occur, the reduction has been enrolled, and refund issued prior to the decision by the assessment appeals board. OAG 8/14/97 (No. 97-308, Vol. 80 p. 224).

[190.0055](#) **Jurisdiction—Welfare Exemption.** Jurisdiction to make determinations and findings on the eligibility of property for the welfare exemption lies exclusively with the State Board of Equalization and the assessor, who jointly administer the exemption under Revenue and Taxation Code section 254.5. A finding by the Board staff that property is ineligible for the exemption is appealable only to the Board. A finding by an assessor that property is ineligible for the exemption is not appealable to an assessment appeals board. That denial is grounds for the filing of a claim for refund as well as for a suit for refund, but not for a hearing by a local board. C 3/11/94.

[190.0058](#) **Meetings of Multiple Panels.** Two separate panels of the same assessment appeals board can be in session concurrently to either hear cases or deliberate under certain circumstances. Revenue and Taxation Code section 1622.5 provides that in counties in which two or more boards have been created, the clerk may assign one or more members from one panel to serve temporarily as members of another board. The statute

then provides for the appointment of alternate members for each board, who are to serve when any regular member of the board is temporarily unable to act as a member of the board. Under this reading, there could be as many as ten separate panels created from a five member board to hear ten separate appeals. Since there would always be overlapping membership, however, the panels thus created could not meet or deliberate at the same time unless a qualified alternate serves. C 11/5/99.

[190.0059](#) **Morgan Property Taxpayers' Bill of Rights.** Legislation, effective January 1, 1994, contains numerous provisions relating to assessment appeals, escape assessments, and information to be provided assessesees, and it establishes "The Morgan Property Taxpayers' Bill of Rights." The State Board of Equalization is required to designate an independent "Property Taxpayers' Advocate" who is to be responsible for reviewing the adequacy of procedures relating to the distribution of information regarding property tax assessment matters among the Board, assessors, and taxpayers and of procedures relating to the expeditious handling of Board, assessor, and taxpayer inquiries, complaints, and problems. LTA 10/12/93 (No. 93/62); LTA 12/30/93 (No. 93/80).

[190.0060](#) **Necessity for Filing Claim for Refund.** An appeal by an assessee to the County Board of Equalization for relief is a prerequisite to any refund action where the question is one of value, but where the question is one of law, an assessee may proceed directly to court. C 9/20/79.

[190.0061](#) **Necessity for Filing Claim for Refund.** While Revenue and Taxation Code section 5097(b)(2) and (c)(2) authorizes the filing of a claim for refund as part of an application for the equalization of a regular or an escape assessment, it does not authorize anyone other than a board of supervisors to grant a refund. If a claim for refund filed as part of an assessment appeal is denied, the exhaustion of administrative remedies prior to filing a law suit requirement is satisfied. C 10/26/84.

[190.0065](#) **Open Meetings.** The Ralph M. Brown Act (Government Code sections 54950-54962) does not apply to the hearings of a county board of supervisors when acting as the county board of equalization or to the hearings of an assessment appeals board. OAG 6/20/96 (No. 95-1207, Vol. 79, p. 124); C 2/16/96.

[190.0070](#) **Penalty Review Authority.** The authority of an assessment appeals board under Property Tax Rule 302(b) to review, equalize, and adjust penal and escape assessments, excluding only Revenue and Taxation Code section 531.1 escape assessments, extends to 25 percent penalty assessments imposed pursuant to section 504 of the Code. C 2/8/80.

[190.0073](#) **Presumption Affecting Burden of Proof.** The presumption affecting the burden of proof in favor of the assessee who has supplied all information as required by law to the assessor in any administrative hearing involving the appeal of an escape assessment as provided for in Revenue and Taxation Code section 167 applies to all equalization hearings held subsequent to January 1, 1996, even if the fiscal years and protested escape assessments relate to periods prior thereto. C 10/24/96; C 10/30/96.

[190.0074](#) **Purchase Price Presumption.** The presumption that a purchase price is "full cash value" or "fair market value" as provided for in Revenue and Taxation Code section 110(b) applies to all equalization hearings in progress or held subsequent to January 1, 1989, even if the fiscal years and protested assessments relate to periods prior thereto. C 5/10/89.

[190.0075](#) **Res Judicata.** This legal doctrine is inapplicable to assessment appeals board decisions. An assessment appeals board's decision applies only to the particular appeal to which it relates. C 10/10/91; C 4/30/93.

[190.0078](#) **Rules.** An assessment appeals board has no legal authority to pass resolutions through which the board adopts rules of notice and procedures, such as a rule which authorizes the clerk to schedule a preliminary hearing if requested by one of the parties to an assessment appeal.

Article XIII, section 16 of the California Constitution vests authority in county boards of supervisors, and not the assessment appeals boards, to adopt rules of notice and procedures for assessment appeals boards. Thus, the failure by the board of supervisors to properly pass the resolution renders the rule void and unenforceable. C 6/16/99.

[190.0080](#) **Trial de Novo.** A Superior Court called upon to review a local assessment appeals board decision will not receive new evidence of value but will only review the record of the hearing before the board. The court will only hear the case for the following reasons:

1. Lack of due process; or
2. Actual or constructive fraud; or
3. Abuse of discretion; or
4. An erroneous appraisal method incapable of producing the correct value. C 7/21/78.