ORANGE COUNTY
ASSESSMENT PRACTICES SURVEY

DECEMBER 2011

CALIFORNIA STATE BOARD OF EQUALIZATION

BETTY T. YEE, SAN FRANCISCO
SEN. GEORGE RUNNER (RET.), LANCASTER
MICHELLE STEEL, ROLLING HILLS ESTATES
JEROME E. HORTON, LOS ANGELES
JOHN CHIANG

KRISTINE CAZADD, EXECUTIVE DIRECTOR
December 21, 2011

TO COUNTY ASSESSORS:

ORANGE COUNTY
ASSESSMENT PRACTICES SURVEY

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

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from January through June 2010. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Guillory and his staff were cooperative during the survey. We acknowledge their patience and courtesy during the interruption of their normal work routine.

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

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:dcl
Enclosure
## TABLE OF CONTENTS

**INTRODUCTION**......................................................................................................................... 1  
**SCOPE OF ASSESSMENT PRACTICES SURVEYS** ................................................................. 2   
**EXECUTIVE SUMMARY** .......................................................................................................... 3  
**OVERVIEW OF ORANGE COUNTY** ...................................................................................... 5  
**ADMINISTRATION**.................................................................................................................... 6  
  - **BUDGET AND STAFFING** ........................................................................................................ 6  
  - **WORKLOAD** .............................................................................................................................. 6  
  - **APPRAISER CERTIFICATION**..................................................................................................... 9  
  - **STAFF PROPERTY PROCEDURES** .......................................................................................... 9  
  - **ASSESSMENT APPEALS** .......................................................................................................... 10  
  - **DISASTER RELIEF** .................................................................................................................... 12  
  - **EXEMPTIONS** .......................................................................................................................... 14  
  - **ASSESSMENT FORMS** .............................................................................................................. 17  
**ASSESSMENT OF REAL PROPERTY** ...................................................................................... 19  
  - **CHANGE IN OWNERSHIP** ...................................................................................................... 19  
  - **NEW CONSTRUCTION** .......................................................................................................... 27  
  - **DECLINES IN VALUE** ............................................................................................................. 29  
  - **CALIFORNIA LAND CONSERVATION ACT PROPERTY** ......................................................... 31  
  - **TAXABLE POSSESSORY INTERESTS** ...................................................................................... 33  
  - **RESTRICTED HISTORICAL PROPERTY** .................................................................................. 36  
  - **LEASEHOLD IMPROVEMENTS** ............................................................................................... 37  
  - **MINERAL PROPERTY** .............................................................................................................. 39  
**ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES** ................................................. 40  
  - **AUDIT PROGRAM** .................................................................................................................... 40  
  - **BUSINESS PROPERTY STATEMENT PROGRAM** ..................................................................... 42  
  - **BUSINESS EQUIPMENT VALUATION** .................................................................................... 45  
  - **LEASED EQUIPMENT** .............................................................................................................. 47  
  - **MANUFACTURED HOMES** ...................................................................................................... 48  
  - **AIRCRAFT** ............................................................................................................................... 49  
  - **VESSELS** .................................................................................................................................. 52  
**APPENDIXES**............................................................................................................................. 55  
  - **A. COUNTY-ASSESSED PROPERTIES DIVISION SURVEY GROUP** ....................................... 55  
  - **B. ASSESSMENT SAMPLING PROGRAM** ................................................................................ 56  
  - **C. RELEVANT STATUTES AND REGULATIONS** ..................................................................... 59  
**ASSESSOR'S RESPONSE TO BOE'S FINDINGS** ................................................................... 66
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 Orange County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Orange 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 Webster J. Guillory, Orange County Assessor, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

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

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

In addition, pursuant to Revenue and Taxation Code\(^1\) section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix C.

Our survey of the Orange County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contact with officials in other public agencies in Orange County that provided information relevant to the property tax assessment program. This survey also included an assessment sample of the 2009-10 assessment roll to determine the average level (ratio) of assessment for all properties and the disparity among assessments within the sample. The ideal assessment ratio is 100 percent, and the minimum acceptable ratio is 95 percent. Disparity among assessments is measured by the sum of absolute differences found in the sample; the ideal sum of absolute differences is 0 percent and the maximum acceptable number is 7.5 percent. If the assessment roll meets the minimum standards for ratio and disparity, the county is eligible to continue to recover the administrative cost of processing supplemental assessments. The sampling program is described in detail in Appendix B.

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

---

\(^1\) Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.
EXECUTIVE SUMMARY

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

In the area of administration, we found the assessor is effectively managing the following administration programs: staffing, workload, appraiser certification, staff property procedures, assessment appeals, exemptions, and assessment forms. However, we noted need for improvement in the administration of the disaster relief program.

In the area of real property, the assessor has an effective decline in value assessment program. We found a need for improvement in the assessor's assessment programs for change in ownership, new construction, California Land Conservation Act (CLCA) property, taxable possessory interests, restricted historical property, leasehold improvements, and mineral property.

In the area of business and personal property, the assessor has effective programs for the valuation of leased equipment, as well as the assessment of manufactured homes and aircraft. However, we noted the need for improvement in the assessor's programs for conducting audits, processing business property statements, valuing business equipment, and assessing vessels.

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

The Orange County assessment roll meets the requirements for assessment quality established by section 75.60. Our sample of the 2009-10 assessment roll indicated an average assessment ratio of 100.10 percent, and the sum of the absolute differences from the required assessment level was 0.12 percent. Accordingly, the BOE certifies that Orange 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, arrayed in the order that they appear in the text.

RECOMMENDATION 1: Improve the disaster relief program by: (1) consistently issuing supplemental assessments when revaluing restored property, and (2) consistently applying the inflation factor to the assessed value of damaged properties. .........................14

RECOMMENDATION 2: Remove penalty language from the standard letter sent to taxpayers who have filed an incomplete PCOR. .........................21

RECOMMENDATION 3: Improve the LEOP program by applying appropriate penalties required by section 482(b) if a change in ownership statement is not returned timely as required by section 480.1 or 480.2. .................................................................23
RECOMMENDATION 4: Correct the language on section 63.1 and section 69.5 denial letters..............................25

RECOMMENDATION 5: Enroll all domestic and irrigation water wells as land..............29

RECOMMENDATION 6: Improve the CLCA program by: (1) correctly estimating the value of nonliving improvements, (2) enrolling the correct value for properties subject to terminating restrictions, and (3) correctly assessing homesites on CLCA land..................32

RECOMMENDATION 7: Improve the taxable possessory interest program by: (1) valuing taxable possessory interests in faculty housing at the University of California at Irvine in accordance with Rule 21, (2) using the stated term of possession as the reasonably anticipated term of possession in accordance with Rule 21 when valuing taxable possessory interests, (3) not assessing a taxable possessory interest to a public user of public lands, and (4) issuing supplemental assessments on all qualifying taxable possessory interests.................34

RECOMMENDATION 8: Improve restricted historical property assessments by properly applying the property tax component when valuing historical properties.................................37

RECOMMENDATION 9: Assess all wireless communication tower sites delegated for local assessment..........................................................38

RECOMMENDATION 10: Review discounted cash flow procedures for valuing petroleum properties to better follow generally accepted appraisal standards.........................................................39

RECOMMENDATION 11: Use a comprehensive audit checklist as a standard component of the audit program........................................42

RECOMMENDATION 12: Value taxable business property in accordance with section 501, when a taxpayer fails to file a business property statement.................................................................44

RECOMMENDATION 13: Use the Board-recommended factor tables as intended when valuing mobile agricultural equipment........................................46

RECOMMENDATION 14: Properly classify and assess personal property in apartment complexes pursuant to section 602..................46

RECOMMENDATION 15: Apply depreciation percentages to vessels according to type....54
OVERVIEW OF ORANGE COUNTY

Orange County encompasses 798 square miles. Orange County is bordered by the counties of Los Angeles and San Bernardino to the north, Riverside to the east, San Diego to the southeast, and the Pacific Ocean to the west. Orange County was formed in 1889 and was given the name of Orange for its extensive orange groves. Santa Ana is the county seat. Orange County has 34 incorporated cities and, according to the U.S. Census Bureau, an estimated population of 3,026,786 as of 2009.

The following table sets forth information pertinent to the 2009-10 assessment roll:\textsuperscript{2}

<table>
<thead>
<tr>
<th>PROPERTY TYPE</th>
<th>ENROLLED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>$226,877,413,000</td>
</tr>
<tr>
<td>Improvements</td>
<td>$183,515,049,000</td>
</tr>
<tr>
<td>Personal Property</td>
<td>$17,447,825,000</td>
</tr>
<tr>
<td>Exemptions\textsuperscript{3}</td>
<td>($9,049,466,000)</td>
</tr>
<tr>
<td>Total Assessment Roll</td>
<td>$418,790,821,000</td>
</tr>
</tbody>
</table>

The next table sets forth assessed values over recent years:\textsuperscript{4}

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>TOTAL ROLL VALUE</th>
<th>CHANGE</th>
<th>STATEWIDE CHANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>$418,790,821,000</td>
<td>-1.3%</td>
<td>-2.4%</td>
</tr>
<tr>
<td>2008-09</td>
<td>$424,494,329,000</td>
<td>3.8%</td>
<td>4.7%</td>
</tr>
<tr>
<td>2007-08</td>
<td>$408,893,989,000</td>
<td>8.4%</td>
<td>9.6%</td>
</tr>
<tr>
<td>2006-07</td>
<td>$377,324,250,000</td>
<td>11.3%</td>
<td>12.3%</td>
</tr>
<tr>
<td>2005-06</td>
<td>$339,088,543,000</td>
<td>10.0%</td>
<td>11.1%</td>
</tr>
</tbody>
</table>

\textsuperscript{2} State Board of Equalization Annual Report, Table 7.
\textsuperscript{3} The Homeowners' Exemption value is not included in the exemption value noted in this table.
\textsuperscript{4} State Board of Equalization Annual Report, Table 7.


ADMINISTRATION

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

Budget and Staffing

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

<table>
<thead>
<tr>
<th>BUDGET YEAR</th>
<th>GROSS BUDGET</th>
<th>CHANGE</th>
<th>BUDGETED POSITIONS(^5)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>$32,501,772</td>
<td>-1.3%</td>
<td>321</td>
</tr>
<tr>
<td>2008-09</td>
<td>$32,943,474</td>
<td>-11.7%</td>
<td>325</td>
</tr>
<tr>
<td>2007-08</td>
<td>$37,326,665</td>
<td>14.7%</td>
<td>325</td>
</tr>
<tr>
<td>2006-07</td>
<td>$32,557,011</td>
<td>12.0%</td>
<td>324</td>
</tr>
<tr>
<td>2005-06</td>
<td>$29,066,806</td>
<td>1.0%</td>
<td>327</td>
</tr>
</tbody>
</table>

As shown in the table above, the number of budgeted staff for the assessor's office has decreased over the past several years. Authorized staffing, including some unbudgeted positions includes the assessor, 6 managers, 101 real property appraisers, 58 auditor-appraisers, 15 drafting/mapping technicians, 14 computer analysts, 11 other technical/professional staff, and 131 support staff. Due to the downturn in the economy and the lack of revenue, the assessor has experienced a decline in his operating budget each of the last two years.

Workload

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

In addition, for most real property, the assessor is annually required to enroll the lower of current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has affected the taxable value of the property for that year. In

\(^5\) The number of staff reported includes the assessor.
certain economic times, this decline may greatly affect the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

According to the prior two tables, the total roll value has increased four out of the past five years, while the gross budget has increased three out of the past five years. The assessor's workload triggered by changes in ownership has decreased three out of the last four years, with only a slight increase for the 2009-10 roll year, while the assessor's workload triggered by new construction has decreased each of the last two years.

The following charts illustrate these changes:
The decrease in workload over recent years for assessable changes in ownership and new construction was replaced by significant workload increases in the areas of declines in value and assessment appeals.

The following charts illustrate these changes:

**Declines in Value**

![Chart showing declines in value over years]

**Assessment Appeals**

![Chart showing assessment appeals over years]
Appraiser Certification

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless he or she holds a valid appraiser's certificate issued by the BOE. There are 181 certified appraisers on staff, including the assessor and his management staff; 125 hold advanced appraiser's certificates. We found that the assessor and his staff possess the required appraiser's certificates. Additionally, we found that the auditor-appraisers performing audits meet the requirements referenced in section 670(d). The assessor does not use contract appraisers.

In Orange County, the responsibility of ensuring the certified appraisal staff meets its annual training requirement is performed by the office training coordinator. Some of the duties performed by the training coordinator include:

- Tracking staff training hours to ensure they have the requisite training each year to maintain their appraisal certification,
- Arranging for staff to attend a variety of training opportunities each year, such as courses and seminars presented in-house or at conferences, by the BOE, or by the Appraisal Institute, and
- Tracking the progress of newly hired appraisal staff to ensure they complete the BOE's certification program within the one-year timeframe.

We found no problems with the assessor's appraiser certification and training program.

Staff Property Procedures

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

In Orange County, the assessor's policy is that no appraiser or auditor-appraiser is allowed to process any activity or enroll the value on property they own or in which they have a partial ownership interest. Each certified staff member is annually required to complete and file the Fair Politics Practice Commission Form 700, Statement of Economic Interests. From the information submitted by the employees on Form 700, the assessor compiles a list of staff-owned properties located within his jurisdiction.

When an appraisal, for either a change in ownership or completed new construction, is required on a staff-owned property, the assignment is given to the appraiser, other than the owner of the property, responsible for valuing properties in that particular grid. When the appraisal is complete, it is forwarded to the senior appraiser for that grid and to the managing appraiser for review and approval of the valuation.

We reviewed a number of staff-owned properties and found no problems.
Assessment Appeals

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

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board. The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application for reduction by the same taxpayer.

Orange County Ordinance 97-3989 provides for the creation of the county's five assessment appeals boards (AAB). Each AAB consists of five members appointed by the board of supervisors. Pursuant to section 1624.02, all members complete the required training when appointed to the AAB and attend quarterly training conducted by the clerk of the board and board counsel. The regular filing period for appeals in Orange County is July 2 through September 15.

Resolution 97-404 authorizes each AAB member to serve in the position of hearing officer. In compliance with section 1637, hearing officers only hear appeals under the following circumstances: an application has been filed under section 1603; the value of the property does not exceed $500,000; or the property under consideration is a single-family dwelling, condominium, cooperative, or multiple-family dwelling of four units or less regardless of value, and the applicant has requested the hearing be held before a hearing officer. Resolution 06-0618, in accordance with section 1641.5, provides that the decision of a hearing officer constitutes the final administrative decision without any further action by the AAB.

Due to the declining market over the past few years, Orange County has seen an increase in the number of appeals, with the majority involving valuation issues of residential properties. Orange County conducts appeals hearings every business day except Fridays and holidays.
The following table sets forth the assessment appeals workload in recent years:

<table>
<thead>
<tr>
<th>ASSESSMENT ROLL</th>
<th>2008-09</th>
<th>2007-08</th>
<th>2006-07</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeals Filed</td>
<td>19,057</td>
<td>13,251</td>
<td>5,511</td>
<td>8,073</td>
</tr>
<tr>
<td>Appeals Carried Over From Prior Year</td>
<td>6,023</td>
<td>2,193</td>
<td>2,901</td>
<td>4,868</td>
</tr>
<tr>
<td><strong>Total Appeals Workload</strong></td>
<td>25,080</td>
<td>15,444</td>
<td>8,412</td>
<td>12,941</td>
</tr>
<tr>
<td>Resolution:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Withdrawn</td>
<td>3,535</td>
<td>3,919</td>
<td>3,482</td>
<td>3,905</td>
</tr>
<tr>
<td>Stipulation</td>
<td>5,117</td>
<td>1,662</td>
<td>683</td>
<td>761</td>
</tr>
<tr>
<td>Appeals Reduced</td>
<td>2,219</td>
<td>1,151</td>
<td>926</td>
<td>2,853</td>
</tr>
<tr>
<td>Appeals Upheld</td>
<td>354</td>
<td>157</td>
<td>244</td>
<td>381</td>
</tr>
<tr>
<td>Appeals Increased</td>
<td>0</td>
<td>7</td>
<td>12</td>
<td>764</td>
</tr>
<tr>
<td>Other Determination*</td>
<td>4,145</td>
<td>2,525</td>
<td>872</td>
<td>1,376</td>
</tr>
<tr>
<td><strong>Total Resolved</strong></td>
<td>15,370</td>
<td>9,421</td>
<td>6,219</td>
<td>10,040</td>
</tr>
<tr>
<td>To Be Carried Over**</td>
<td>9,710</td>
<td>6,023</td>
<td>2,193</td>
<td>2,901</td>
</tr>
</tbody>
</table>

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

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

The clerk is responsible for providing applications for changed assessment to the public. The application can be obtained at the clerk's office or through the website. Electronically-filed applications are also accepted. Approximately 48 percent of the applications received for the 2009-10 filing period were either prepared or filed electronically. Online applications are screened for validity and contain all information required of a hard copy. Tax agents are typically the only group who submit appeals electronically. Electronic filings are allowed only if the applicant first registers with the clerk to receive a computer-generated pin which authenticates an electronic signature. Otherwise, applications may be prepared, but the applicant must print, sign, and mail a physical copy to the clerk.

When an application is received, the clerk reviews it for validity, stamps it with the date received, checks the postmark for timeliness, enters application information into the computer system, and issues a case number. Once a week the clerk scans the application into a shared computer system and uploads application information to the assessor. The clerk drafts a calendar of potential hearing dates and allows the assessor to make suggestions if changes may be necessary. In accordance with section 1605.6, the clerk sets the matter for hearing and notifies the applicant not less than 45 days prior to the hearing. Over the last five years, all appeals were resolved within the two-year time period.
The assessor's quality assurance section is the liaison between the clerk and the appraisal staff. Staff in this section receives and reviews the agenda of scheduled hearings, then sends appeals information to the appropriate division for handling. Both the real property and business property divisions have appeals sections. Appraisers and auditor-appraisers within each section are responsible for preparing and presenting appeals.

The assigned appraiser or auditor-appraiser attempts to make contact with each applicant to try to resolve the issue without proceeding with the formal appeals process. The assessor believes that every attempt to contact the applicant and resolve the issue should be made before the matter goes before the AAB. Information provided by the applicant is reviewed and taken into consideration and, if necessary, an appraisal is done on the subject property.

If an understanding or agreement is reached between the appraiser and the applicant, the applicant may withdraw the application or stipulate to a new value. The initial hearing notice sent to the applicant contains a section to allow withdrawal of the application. Should an applicant decide to withdraw, this section is completed and returned to the clerk. If the appraiser or auditor-appraisal determines that a value change is warranted, the value is reviewed and approved by a supervisor before attempting to reach an agreement with the applicant. If the appraiser and applicant agree to the new value, a stipulation is prepared outlining the details of the assessment changes. Stipulations are placed on the calendar to be reviewed and approved by the AAB. If no agreement can be reached, the appeal process continues and a hearing takes place.

During our survey, we were able to attend an AAB hearing. The hearing was well organized. The assessor's deputy in attendance was prepared and presented the cases professionally. The AAB appeared knowledgeable and provided the public with helpful information regarding the appeals process. We have no recommendations for the assessor's assessment appeals program.

**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 assessees whose property suffers damage exceeding $10,000 (without fault) in a misfortune or calamity. In addition, section 170 provides procedures for calculating value reductions and restorations of value for the affected property.

To obtain relief under section 170, assessees must make a written application to the assessor requesting reassessment. In addition, if the assessor is aware of any property that has suffered damage by misfortune or calamity, the assessor must provide the last known assessees with an application for reassessment. Alternatively, the board of supervisors may, by ordinance, grant the assessor the authority to initiate the reassessment if the assessor is aware and determines that within the preceding 12 months taxable property located in the county was damaged or destroyed by misfortune or calamity.

Upon receipt of a properly completed application, the assessor shall reassess the property for tax relief purposes. If the sum of the full cash values of the land, improvements, and personal property before the damage or destruction exceeds the sum of the values after the damage by
$10,000 or more, the assessor shall then determine the percentage reductions in current market value and reduce the assessed values by those percentages.

The Orange County Board of Supervisors first adopted a disaster relief ordinance (No. 2812) on February 11, 1975. The original ordinance was last updated December 8, 1998, with the adoption of Ordinance No. 98-16. The current ordinance conforms to all statutory provisions. The ordinance allows for reassessment of property damaged or destroyed by any misfortune or calamity and is not limited to Governor proclaimed disasters.

The following table sets forth the number of disaster relief applications filed in recent years:

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>CLAIMS FILED</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>266</td>
</tr>
<tr>
<td>2008-09</td>
<td>548</td>
</tr>
<tr>
<td>2007-08</td>
<td>323</td>
</tr>
<tr>
<td>2006-07</td>
<td>337</td>
</tr>
<tr>
<td>2005-06</td>
<td>313</td>
</tr>
</tbody>
</table>

The assessor discovers instances of disasters or calamities through media reports, review of building permits issued for repairs, field canvassing, and taxpayer-initiated contact. In addition, the assessor regularly receives fire reports from fire protection agencies in the county. In the case of disasters that affect several properties, such as a wildfire or landslide, the assessor's staff provides disaster relief information to property owners at county-sponsored local assistance centers. The application used by the assessor conforms to all of the requirements of section 170(a).

Applications received by the assessor are date-stamped and sent to the quality assurance section. Staff in this section review all applications for timeliness and information requirements, and generate the necessary paperwork for the appraisal staff. The claim is then given to the appraiser or auditor-appraiser to determine the value of the property before and after the calamity and if it qualifies for relief under section 170. Properties granted relief are tracked to ensure that field checks are made in order to determine the progress of repairs.

If a claim qualifies for relief, the appraiser or auditor-appraiser will determine the amount of relief to be granted and then forward the corrected roll values to the auditor-controller. The auditor-controller is responsible for generating a prorated refund or adjusted bill. It is the assessor's responsibility to issue supplemental assessments once the property has been restored.

We reviewed the records of several properties that had suffered a calamity and noted the records were well documented. The assessor gave relief to property owners as of the first day of the month in which the disaster or calamity occurred, and we found that all of the calculations were accurate and complied with current statutory provisions. Claims received after the filing deadline were denied and the appropriate documentation of filing dates was maintained. However, we did find two areas of concern.
RECOMMENDATION 1: Improve the disaster relief program by: (1) consistently issuing supplemental assessments when revaluing restored property, and (2) consistently applying the inflation factor to the assessed value of damaged properties.

Consistently issue supplemental assessments when revaluing restored property.

Although the assessor generally issues supplemental assessments upon restoration of the damaged property, we found a few instances in which the assessor cancelled the supplemental assessments once the property had been completely repaired.

Section 170(h) states that additional assessments shall be made upon completion of repair, reconstruction, or restoration. Section 170(i) provides for the use of supplemental roll procedures to make these additional assessments.

Cancelling the supplemental assessments on some, but not all, repairs, reconstructions, or restorations of damaged properties results in inequitable treatment of taxpayers with damaged properties. Additionally, the assessor's practice is contrary to the requirements of law and results in a loss of tax revenue.

Consistently apply the inflation factor to the assessed value of damaged properties.

When there is no repair work started by the lien date following a disaster, the assessor does not always apply the inflation factor to the assessed value of the damaged property.

Pursuant to section 170(g), if reconstruction, restoration, or repair is not complete on the subsequent lien date, the taxable value of the property shall be the assessed value of the property in its damaged condition compounded by the inflation factor or, if partial reconstruction, restoration, or repair has occurred, the difference between its factored base year value immediately before the calamity and its assessed value in its damaged condition multiplied by the percentage of the repair, reconstruction, or restoration completed on lien date.

When the assessor fails to apply the inflation factor on some damaged properties, he fails to treat all taxpayers with damaged properties equitably. This practice also results in incorrect valuations of damaged properties during their reconstruction, restoration, or repair period.

Exemptions

Church and Religious Exemptions

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

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

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

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>RELIGIOUS EXEMPTIONS</th>
<th>EXEMPTED VALUE</th>
<th>CHURCH EXEMPTIONS</th>
<th>EXEMPTED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>834</td>
<td>$1,353,647,437</td>
<td>169</td>
<td>$76,520,601</td>
</tr>
<tr>
<td>2008-09</td>
<td>861</td>
<td>$1,314,993,311</td>
<td>164</td>
<td>$80,960,300</td>
</tr>
<tr>
<td>2007-08</td>
<td>867</td>
<td>$1,258,329,515</td>
<td>176</td>
<td>$68,076,167</td>
</tr>
<tr>
<td>2006-07</td>
<td>835</td>
<td>$1,137,720,956</td>
<td>174</td>
<td>$54,431,434</td>
</tr>
<tr>
<td>2005-06</td>
<td>810</td>
<td>$1,104,084,525</td>
<td>184</td>
<td>$61,063,262</td>
</tr>
</tbody>
</table>

In Orange County, the assessor's exemption staff consists of the exemption manager and 16 other staff members. This staff processes all church, welfare, and religious exemption claims within the county. The exemption staff maintains detailed records on all claimants; additionally, the assessor's staff started scanning documents associated with certain exemptions.

During the survey, we reviewed multiple claims for both religious and church exemptions. These claims included new and annual filings. Upon review of these claims and the assessor's procedures, we found the assessor correctly administers the exemptions. Therefore, we have no recommendations for the assessor's church and religious exemption programs.

Welfare Exemption

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

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

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

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

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>WELFARE EXEMPTION</th>
<th>EXEMPTED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>1,572</td>
<td>$6,606,392,012</td>
</tr>
<tr>
<td>2008-09</td>
<td>1,527</td>
<td>$5,754,615,116</td>
</tr>
<tr>
<td>2007-08</td>
<td>1,423</td>
<td>$4,501,657,014</td>
</tr>
<tr>
<td>2006-07</td>
<td>1,753</td>
<td>$4,736,298,355</td>
</tr>
<tr>
<td>2005-06</td>
<td>1,495</td>
<td>$3,865,017,028</td>
</tr>
</tbody>
</table>

In Orange County, the exemption staff processes all welfare exemptions. The exemption staff ensures that each claimant has a valid OCC and that a site inspection is conducted on new applicants or whenever a property's use changes.

We reviewed multiple welfare claims, including claims for low-income housing, charitable activities, religious activities, and hospital activities. The assessor effectively administers the welfare exemption and, accordingly, we have no recommendations for this topic.

**Homeowners' and Disabled Veterans' Exemptions**

The homeowners' exemption is authorized by article XIII, section 3(k) of the California Constitution. This constitutional provision, implemented by section 218, exempts $7,000 of the full value of a dwelling when occupied by an owner as a principal place of residence.

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

The homeowners' exemption requires a one-time filing. Once granted, the exemption remains in effect until title to the property changes, the owner does not occupy the dwelling as his or her principal place of residence as of the lien date, or the property is otherwise ineligible.
The disabled veterans' exemption at the $100,000 basis requires a one-time filing, while the low-income exemption at the $150,000 level requires annual filings to ensure the claimant continues to meet the household low-income restriction.

The following table sets forth the number of homeowners' and disabled veterans' exemptions data for recent years:

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>HOMEOWNERS' EXEMPTIONS</th>
<th>EXEMPTED VALUE</th>
<th>DISABLED VETERANS' EXEMPTIONS</th>
<th>EXEMPTED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>469,658</td>
<td>$3,327,263,462</td>
<td>1,211</td>
<td>$117,877,278</td>
</tr>
<tr>
<td>2008-09</td>
<td>479,786</td>
<td>$3,340,373,678</td>
<td>1,163</td>
<td>$112,132,198</td>
</tr>
<tr>
<td>2007-08</td>
<td>483,052</td>
<td>$3,367,050,806</td>
<td>1,100</td>
<td>$104,418,852</td>
</tr>
<tr>
<td>2006-07</td>
<td>486,959</td>
<td>$3,390,509,474</td>
<td>1,078</td>
<td>$98,546,688</td>
</tr>
<tr>
<td>2005-06</td>
<td>492,211</td>
<td>$3,444,855,464</td>
<td>1,077</td>
<td>$94,884,573</td>
</tr>
</tbody>
</table>

The county follows statutory guidelines in the administration of both exemptions. Several new disabled veterans' claims were reviewed during the survey. We determined these claims were processed within statutory guidelines. No recommendations are being made for either exemption program.

**Assessment Forms**

Government Code section 15606 requires the BOE to prescribe and enforce the use of all forms for the assessment of property for taxation. Generally, the assessor may not change, add to, or delete the specific wording in a prescribed form. The assessor may, however, rearrange information on a form provided that the assessor submits such form to the BOE for review and approval. Assessors may also use locally developed forms to assist them in their assessment duties. However, such forms may not be used as substitutes for Board-prescribed forms, and no penalty may be imposed upon a property owner for failure to file a county-developed form or questionnaire.

To enforce the use of prescribed forms, the BOE annually requires assessors to specify in writing the forms they will use in the succeeding assessment year. Assessors are also required to submit to the BOE copies of the final prints of all prescribed forms they intend to use.

Review of the forms used in the Orange County Assessor's Office for the 2009-10 roll year revealed the following:

- The assessor used 77 of the 91 Board-prescribed forms.
- Of the 77 forms used, the assessor rearranged 11.

---

6 Also sections 480(c), 480.2(b), 480.4, and Rules 101 and 171.
• The assessor has timely provided the BOE with copies of rearranged forms, final prints, and forms checklists.

We found no problems with this program.
ASSESSMENT OF REAL PROPERTY

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

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

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

Change in Ownership

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

Document Processing

The assessor's quality assurance section maintains written policies and procedures for the processing of changes in ownership. The following table shows the total number of transfer documents received and the total number of assessable events in Orange County in recent years:

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>TRANSFER DOCUMENTS RECEIVED</th>
<th>ASSESSABLE EVENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>157,127</td>
<td>52,379</td>
</tr>
<tr>
<td>2008-09</td>
<td>172,693</td>
<td>46,804</td>
</tr>
<tr>
<td>2007-08</td>
<td>203,988</td>
<td>55,519</td>
</tr>
<tr>
<td>2006-07</td>
<td>234,156</td>
<td>75,268</td>
</tr>
<tr>
<td>2005-06</td>
<td>242,692</td>
<td>76,762</td>
</tr>
</tbody>
</table>

Fluctuations in the numbers of assessable events are due to economic changes, such as changes in interest rates and increases in foreclosures.
The assessor's primary source of discovering properties that have changed ownership is through deeds and other documents recorded at the county recorder's office. The recorder's office requires that BOE-502-A, *Preliminary Change of Ownership Report* (PCOR), accompany documents submitted for recordation for the transfer of ownership of real property. PCORs are available at both the assessor's and recorder's offices and on their websites.

The recorder initially screens recorded documents by title, reviews a title list provided by the assessor, and only sends documents on the list to the assessor. Images of recorded documents that meet the criteria are placed on CDs. The assessor collects hard copies of the documents and CDs weekly. When recorded documents are received, the assessor's identification division starts the change in ownership process by determining assessability.

Document screening staff uses the legal description to determine which parcel a recorded document refers to and enters the information into the assessor's computer system for all staff to access. Change in ownership staff review each PCOR for completeness. The processes completed by both the document screening and change in ownership staff match the recorded document to the PCOR. Transfer processing staff then review recorded documents to confirm that the correct assessor's parcel number was assigned and that the PCOR was completed properly. Transfer processing staff also determine the assessability of the transfer and update ownership information. Assessable transfers are routed to the real property or business property division for valuation and the application of any possible exclusion. It takes approximately four to six weeks from recordation for assessable property to be valued.

The assessor also discovers potential changes in ownership through change of address requests, attachments to exclusion forms, business property division audits, and communication with transferors, transferees, attorneys, family members, or the media. For deaths occurring within the county, discovery of potential changes in ownership are also obtained through information from the recorder's index and county vital statistics. For changes in ownership resulting from the death of a property owner, the assessor properly uses the date of death as the event date.

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

**Penalties**

Upon deed recordation in Orange County, if an incomplete PCOR is filed with the recorded document, the change in ownership section returns the incomplete PCOR along with a letter of explanation to the property owner for completion. If a completed PCOR is not returned within two to three weeks, another PCOR is sent. A third PCOR may be sent if the second is not returned within an additional two to three weeks. If after three attempts the property owner does not respond, or if initially a PCOR is not filed with the recorded document, the assessor sends BOE-502-AH, *Change in Ownership Statement* (COS), to the property owner and allows them 45 days to return the COS. If after 45 days the COS is not returned, the assessor sends a second COS and a notice of penalty advising the property owner a penalty will be enrolled. The assessor allows an additional 60 days for the property owner to respond before a penalty is actually applied to the assessment. The assessor systematically tracks dates in which the initial COS was
mailed, the date the COS is due, the date the penalty notice is sent, the penalty notice due date, the penalty calculation date, and the penalty bill date.

The Orange County Board of Supervisors adopted Resolution 87-52 pursuant to section 483(b), which allows 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 on which the assessee was notified of the penalty. During our review, we confirmed the notice of penalty sent by the assessor gives the property owner 60 days to respond.

**RECOMMENDATION 2:** Remove penalty language from the standard letter sent to taxpayers who have filed an incomplete PCOR.

The assessor's standard letter requesting additional information from a taxpayer who has filed an incomplete PCOR includes language which implies the taxpayer will have to pay a penalty if a completed PCOR is not submitted timely.

Pursuant to section 480(a), a signed COS is required whenever a change in ownership of real property occurs. Section 482(a) allows for the application of a penalty if a COS required in section 480 is not filed within 45 days. However, statutes do not provide for a penalty for failure to respond to a request to complete a PCOR. Therefore, stating a taxpayer must complete an incomplete PCOR "to avoid any potential penalties" is misleading and not in agreement with statutory law.

**Leases**

The identification division initially processes all long and short-term lease transactions. The assessor discovers lease transactions through recorded and unrecorded documents, taxpayer correspondence, notation on the PCOR or COS, business property division audits, and the media. The assessor attempts to obtain copies of all long term leases. Once lease documents have been processed and determined to be assessable events, the information is sent to an appropriate appraiser or auditor-appraiser for valuation.

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

**Transfer Lists**

Pursuant to section 408.1(a), the assessor maintains a two-year transfer list for public use. The public is able to access the information from computers available in the lobby of the assessor's office for a $10 fee. The fee includes a print-out of as many comparable sales as can fit on the front and back of one page. As required by section 408.1(b), the transfer list is divided into geographical areas by assessor's parcel number (APN) and revised on the 30th day of each calendar quarter. Pursuant to section 408.1(c), the transfer list describes the transferor, the transferee, APN, address of the property, date of transfer, date of recording, recording reference number, and transfer tax if available. The confidentiality provisions of section 481 are observed.
Legal Entity Ownership Program (LEOP)

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

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

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting of legal entity changes in control under section 64(c) and changes in ownership under 64(d). A change in ownership statement must be filed with the BOE within 45 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, Statement of Change in Control and Ownership of Legal Entities. Section 482(b) provides for application of penalty if a person or legal entity required to file a statement under 480.1 and 480.2 does not do so within 45 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE. The BOE advises county assessors of entities that are subject to penalty so they can impose the applicable penalty to the entity's real property.

The assessor maintains written policies and procedures pertaining to the processing of LEOP transfers. The identification division initially receives all LEOP reports and BOE-100-B filings from the BOE. The assessee is identified along with affected parcels, an event is created in the computer system, and the LEOP material is scanned into the document storage system. Commercial appraisers handle the review of LEOP reports and BOE-100-Bs to verify assessability and appraise the real property accordingly. One commercial appraiser is dedicated for periodically reviewing the non-response list. During the review process, the commercial appraiser will conduct an ownership parcel search to ensure all the entity's real property is identified and assessed as of the date of change in control or ownership. The property owner may be contacted to discuss information that could affect the property's valuation.

The assessor discovers potential changes in control or ownership of legal entities from recorded and unrecorded documents, business property division audits, business property statements, news articles, the Internet, television, and correspondence from property owners. If the entity is a publicly traded company, the appraiser will review annual reports, such as form 10K, an annual report required by the U.S. Securities and Exchange Commission, to verify that the entity was involved in a change in control. If a change in control or ownership is discovered but has not
been reported by LEOP, the assessor notifies the BOE’s LEOP section using BOE-100-BR, *County Assessor Legal Entity Transfer Referral*.

Our review of several records shows the assessor does a thorough job in reviewing LEOP reports and reassessing all property interests identified on the BOE-100-Bs, as well as additional properties not reported on the form. However, we did recognize an area needing improvement regarding the application of penalties.

**RECOMMENDATION 3:** Improve the LEOP program by applying appropriate penalties required by section 482(b) if a change in ownership statement is not returned timely as required by section 480.1 or 480.2.

The "Questionnaire Due Dates and Filing Dates for Entities Indicating a Change in Control or Change in Ownership – By Company" lists legal entities that have undergone a change in control or ownership and identifies due dates and actual filing dates of BOE-100-Bs for each entity. When the assessor receives this report and discovers a late filing by a legal entity, a penalty is not applied because the assessor states that a system is not in place to handle such penalties.

Sections 480.1(a) and 480.2(a) state in part, whenever there is a change in ownership or a change in control of any corporation, partnership, limited liability company, or other legal entity, a signed COS shall be filed with the BOE at its office in Sacramento. Section 482(b) states in part, if a person or legal entity required to file a statement described in Section 480.1 or 480.2 fails to do so within 45 days from the earlier of (1) the date of the change in control or the change in ownership, or (2) the date of a written request by the BOE, a penalty of 10 percent shall be added to the assessment made on the roll.7

Forms filed beyond the due date are considered late and subject to a penalty. By failing to apply the required penalty of section 482(b), the assessor is not complying with statutory provisions.

**Change in Ownership Exclusions – Section 63.1**

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

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

---

7 Statutory provision effective January 1, 2010; prior to January 1, 2010, the penalty applied if an entity did not file BOE-100-B within 45 days of written request by the BOE.
The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have been granted the exclusion for property over their $1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Applications and information regarding section 63.1 exclusions are available to the public at the assessor's office and on the assessor's website. When applications are received, they are routed to the roll support staff in the real property division for handling. Roll support staff document receipt of the claim in the computer, review the form for completeness, send the form and a cover letter to the property owner if not completed correctly, and route the complete form to appraisal staff.

The roll support staff is also notified by the identification division if a PCOR indicates a possible section 63.1 exclusion, but a claim is not attached. In these situations, staff sends the property owner a section 63.1 claim and tracks the progress. Incomplete claim forms are also tracked. Remarks are entered in the computer system to alert the appraisal staff of the transfer and potential exclusion. Up to three claim forms may be sent to the property owner. Typically, each time a form is sent, the property owner is given 10 to 30 days to return it. The reappraisal of the property is put on hold until the end of the given period. In actuality, the assessor allows the property owner until the close of the roll to submit a claim.

Appraisal staff determines if a section 63.1 claim will be accepted or denied and values the transfer accordingly. The property owner is notified in writing if a claim is denied.

The assessor submits optional quarterly reports to the BOE listing approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. Spreadsheets are maintained to track previous transfers towards the $1 million limit. Information is also obtained from the quarterly Report of Transfers Exceeding $1,000,000 from the BOE. If the claimant exceeds the $1 million limit, a spreadsheet listing the transfers is provided to appraisal staff for review and discussion with the taxpayer and/or other counties if necessary. Once allocation of the overage has been determined by the appraisal staff, the spreadsheet is updated. If corrections are made, the BOE is notified.

Pursuant to section 63.1(i), the assessor maintains the confidentiality of claim forms by storing all submitted claim forms in a secure area. The information is not accessible to the public.

Change in Ownership Exclusions – Section 69.5

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

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.
The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Orange County accepts base year value transfers from other counties. Applications and information regarding section 69.5 exclusions are available to the public at the assessor's office and on the assessor's website.

Initial processing of section 69.5 claims is similar to the initial processing of section 63.1 claims. Appraisers determine the fair market value of both the original and replacement properties, compute the value comparison of the replacement property as needed, and ultimately determine if the section 69.5 claim will be accepted or denied. If an intercounty claim is filed, a questionnaire is sent to the county in which the original property was located requesting information. The property owner is notified in writing if a claim is denied.

The assessor submits the required quarterly reports to the BOE, listing approved section 69.5 exclusions. The assessor maintains spreadsheets to track and avoid duplicate filings of a section 69.5 claim. Information in the BOE's quarterly *Duplicate Social Security Report* is also utilized when processing these claims. If a possible duplicate claim has been filed, the same process is followed as with section 63.1 claims exceeding the $1 million limit.

Pursuant to section 69.5(n), the assessor maintains the confidentiality of claim forms by storing all submitted forms in a secure area. The information is not accessible to the public.

Our review of the assessor's procedures for processing section 63.1 and section 69.5 claims revealed issues with the language of the assessor's denial letters.

**RECOMMENDATION 4:** Correct the language on section 63.1 and section 69.5 denial letters.

The assessor has standard section 63.1 and section 69.5 denial letters with options to select the reason for the denial. Most letters contain correct language. However, we discovered letters that need to be updated to be in compliance with statutory law. We have noted the number of the option within each letter and the correction that should be made.

- Option 3 and option 14 of the section 63.1 denial, in accordance with *Larson v. Duca*, the date of death is prior to November 5, 1986 and a decree of distribution is filed after this date. The assessor references November 6, 1986.
- Option 7 of the Proposition 58 denial should state "any claimant applying under Proposition 58 to submit all transferees' social security numbers." The claimant is the transferee and is not required to submit a social security number.
- Option 7 of the Proposition 193 denial should not indicate all parents of the grandchildren must be deceased. The grandchild's bloodline parent must be deceased, and if the parent was married, the spouse must also be deceased or remarried. However, for transfers on or after January 1, 2006, a stepparent who has not remarried need not be deceased.
• Option 3 of the Proposition 60, 90, and 110 denials should be eliminated. The claim should be either accepted or denied, and if the claimant wishes to rescind the claim, BOE-60-NR, 
*Notice of Rescission of Claim to Transfer Base Year Value to Replacement Dwelling*, should be used.
• Option 6 of the Proposition 60 denial should include language to indicate, "the claimant's replacement residence must be purchased **or construction must be completed** within two years."

The letters used by the assessor provide the taxpayer with misleading information as to why a claim was denied.

**Valuation**

Once a change in ownership has been determined to be an assessable event, the information is typically sent to an appraiser for valuation. Every assessable transfer is reviewed to confirm that the reported sale price accurately reflects market value. The sale price is not automatically enrolled and may be overridden when data is available to rebut the presumption.

Appraisers have access to real-time valuation programs and maintain in-house residential and commercial sales databases to assist with the valuation process. Typically, residential changes in ownership are valued using the comparable sales approach, and the comparable sales and income approaches are considered when valuing commercial changes in ownership. For partial interest transfers, the assessable portion is valued at market value and added to the factored base year value of the nonassessable portion. The partial interest is given a separate base year value and the correct inflation factor is applied. Market value conclusions are documented in the computer system, and supporting documents are scanned and electronically attached to the file.

Field inspections are conducted at the appraiser's discretion and per the appraiser's judgment. Computer programs and other in-house tools allow an appraiser to view a subject property at their desk.

Our review of several property records indicates the assessor properly values and documents conclusions for most changes in ownership and correctly processes supplemental assessments.

**Direct Enrollment Program**

Direct enrollment allows the assessor to automatically process the assessment of properties meeting certain criteria with minimal appraiser involvement. Orange County has a direct enrollment program for residential properties.

For the 2008-09 assessment roll, the assessor processed 10,803 direct enrollments, which represented approximately 20 percent of the total assessable transfers for the year. Residential properties with values up to $3,000,000 are eligible for direct enrollment. Once a completed PCOR is received and the transfer is processed, it is automatically run through a series of direct enrollment criteria on the computer. Transfers which meet all direct enrollment criteria are forwarded to appraisal supervisors to review, approve, or reject. If accepted, the computer...
notates the name of the appraiser as "syscalc." Transfers which do not meet all direct enrollment criteria are routed to the appropriate appraiser for manual valuation.

Improvement Bonds

Improvement bonds are instruments used to finance construction of public improvements which generally enhance the land value of privately owned real property, such as sewers, sidewalks, lighting, and water lines. Land directly benefiting from such improvements is pledged as security for payment of the construction loan.

Orange County has a small number of areas affected by 1911, 1913, or 1915 improvement bonds. In accordance with section 163, entities receiving revenue derived from payments created by an improvement bond annually notify the assessor of required statistics. The assessor also receives a report from the Orange County Auditor-Controller. Upon a change in ownership, the assessor presumes any outstanding assessment bond balance is included in the nominal sale price of the property.

New Construction

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


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

Discovery

The assessor has written procedures, policies, and forms dealing with new construction. Building permits are the assessor's primary means of discovering new construction. Additional sources of discovery include field inspections, canvass surveys from aerial photographs, and code enforcement referrals.

The assessor receives building permits from 35 permit-issuing agencies.
Permit Processing

Newly issued permits are transmitted to the assessor electronically, by mail, and by fax on a monthly basis. When permits are received, they are routed to the grid support section for processing. Permits are sorted using new construction permit stratification codes. Permits determined to be "no value," which include permits for re-roofing, replacing a water heater, and maintenance/repair, are forwarded to the managing appraiser of roll production for review. Permits confirmed to be "no value" are rejected and discarded. These permits are not entered or tracked in the assessment tax system. Any permits determined to be "workable" are forwarded to roll support to be worked by the appraisal staff. All "workable" permits are parceled, coded, entered into the assessment tax system, and filed with the real property records by the roll support staff. The operational manager assigns the work to the appraisal staff and distributes the records to the appraisers for review and valuation.

The processing of new construction is tracked through the assessment tax system by monitoring the permit stratification codes. In addition, a few local jurisdictions have websites where appraisers can log-in and get information on the progress of new construction. Operational managers track new construction through the use of weekly production reports.

The following is a table indicating the total number of permits received and the number of permits generating a change in value for the last five years:

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>PERMITS RECEIVED</th>
<th>PERMITS RESULTING IN NEW ASSESSMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>62,688</td>
<td>24,171</td>
</tr>
<tr>
<td>2008-09</td>
<td>76,775</td>
<td>29,733</td>
</tr>
<tr>
<td>2007-08</td>
<td>84,600</td>
<td>56,376</td>
</tr>
<tr>
<td>2006-07</td>
<td>91,223</td>
<td>42,022</td>
</tr>
<tr>
<td>2005-06</td>
<td>-</td>
<td>39,306</td>
</tr>
</tbody>
</table>

Valuation

The assessor has a self-reporting program for valuing new construction. All completed new construction is valued and enrolled as of the date of completion. Primary emphasis is placed on the cost approach in the valuation of new construction. The assessor's staff has developed their own construction cost tables based on Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), *Marshall Valuation Service* cost guide, and information from local builders. The assessor also uses RS Means *Building Construction Cost Data* for comparison purposes. The assessor's construction cost tables are updated annually and maintained in the computer system.

Field inspections are conducted for most new construction with the exception of minor items that are accompanied by a new construction letter and are typically resolved in-house without a field check.
In our review of the assessor's new construction program, we noted one area that needs improvement.

**RECOMMENDATION 5:** Enroll all domestic and irrigation water wells as land.

The assessor receives hard copies of building permits from the County Environmental Health Division. However, when we reviewed the processing of well permits issued by this agency, we found instances where the assessor did not add the value of water wells as land for all parcels that have had domestic and irrigation water wells installed.

Rule 124 provides that water wells are land for property tax purposes. Additionally, Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), page I-58, advises assessors to classify wells, including well casings, gravel pack, and drilled holes, as land.

By not attributing any value to the land for value added by the new construction of domestic and irrigation water wells, the assessor is underassessing the land. This misallocation of value could have implications at a later date should there need to be adjustments made for the demolition of improvements. In addition, classifying wells as improvements may result in incorrect special assessments.

**Declines in Value**

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

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

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>PROCESSED DECLINES IN VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>205,280</td>
</tr>
<tr>
<td>2008-09</td>
<td>149,573</td>
</tr>
<tr>
<td>2007-08</td>
<td>10,071</td>
</tr>
<tr>
<td>2006-07</td>
<td>15,303</td>
</tr>
<tr>
<td>2005-06</td>
<td>16,337</td>
</tr>
</tbody>
</table>

With the recent downturn of the housing market, Orange County, like many other counties, has experienced a notable decline in property values. Consequently, there has been a significant increase in the total number of properties eligible for decline-in-value assessments. For the 2007-08 roll year, there were a total of 10,071 decline-in-value assessments processed. For the
2009-10 roll year, more than 200,000 decline-in-value assessments were enrolled. This number represents a major workload increase for the assessor and his staff.

The assessor has written policies, procedures, and forms dealing with declines in value. The discovery of decline-in-value properties is mostly accomplished through an economic adjustment review program (ECA). Operational managers meet annually to discuss and set guidelines and parameters used to identify properties subject to review. The assessor reports they automatically review residential properties with base years of 2003 or newer for declines in value for the 2009-10 roll year. He also reports that multi-family and commercial/industrial properties with base years of 2005 or newer are receiving automatic reviews for the 2009-10 roll year. In addition to ECA, the assessor's website includes informal review request forms to allow for taxpayer generated requests that are outside of the set parameters, along with other information to notify the public about declines in value.

The assessor implements an assessment evaluation services program (AES) to value residential properties within the county. The program is a computerized system that generates a list of comparable sales for a given subject property, determines which sales are most similar to the subject, adjusts comparable sales for differences, then automatically values the subject. The resulting value is the value of the appraisal unit, which includes the land and the improvements. After AES values the properties, the results are manually reviewed by the appraisal staff and the final valuation is made by the operational managers. Roughly 50 percent of the appraisals performed by the AES system are changed by the appraisal staff, mostly due to newer sales occurring after the lien date that weren't available to the program when the initial valuations were performed. The appraiser identification code "AES" indicates that the valuation was performed by the program.

When reviewing multi-family and commercial/industrial real property parcels, the assessor's office uses printed sales ratio lists that detail all properties with use types that are within the parameters the operational managers have set forth. The appraisers use the sales ratio lists, along with other market information, to determine a market value for the lien date that may result in a decline-in-value assessment.

Decline-in-value properties are identified in the assessment system with a taxability code of "ECA." The code prevents the system from automatically applying the annual inflation factor to the prior year's taxable value. Pursuant to section 51(e), the assessor does not apply the annual inflation factor to decline-in-value properties until the properties have been restored to their FBYVs.

The assessor sends a Property Value Notice to property owners if the assessed value has changed due to a decline in value, if the decline in value remains on the roll for the current assessment year, or if the decline in value has been fully or partially restored. The assessor's value notice includes the current taxable value, the FBYV, notification of hearings by the assessment appeals board, the appeals filing period, and the location to file the appeal.

During our examination of the assessment of decline-in-value properties, we found them to be well documented, complete, and reasonably valued.
**California Land Conservation Act Property**

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

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

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

There is little agricultural land in Orange County; the county currently has only 13,528 acres devoted to prime agricultural use, a decrease of 72 percent from the agricultural acreage in 1998. Most of the land under CLCA contract in Orange County is rated non-prime.

For the 2009-10 roll year, Orange County had 39 parcels encumbered by CLCA contracts, encompassing 8,201 acres, for a total assessed land value of $54,012,184. Orange County does not have any land subject to Farmland Security Zone contracts, which are more restrictive contracts providing greater valuation benefits than CLCA contracts, nor have they adopted section 423.3, which allows CLCA properties to be enrolled at a percentage of the base year value. No open space or scenic easements are under restricted value within the county, and no contracts have been cancelled since the last survey. Currently, the county has one contract in nonrenewal that encompasses the majority of the program's acreage. The contract is in the final year of nonrenewal and includes 23 parcels, encompassing 7,976 acres, for a total enrolled value of $51,984,909 for the 2009 lien date.

In Orange County, a senior appraiser is responsible for the valuation of the CLCA properties. The county did not mail CLCA questionnaires out for 2009 due to the small number of properties under contract and the limited information received from previous mailings. The assessor utilizes an automated program for the assessment of the CLCA property. The values developed from the program are incorporated into the assessor's computer system. CLCA properties are annually assessed by comparing the calculated restricted value to the factored base year value and the current market value, and then enrolling the lower of the three values.

Income and expenses are derived from a market analysis performed by the senior appraiser, using data from the Orange County crop report, prior year questionnaires received from property owners, and other published data. We found that the income and expenses used in CLCA valuations are adequately supported.
In developing the capitalization rate used in the valuation process for CLCA properties, the assessor correctly uses the current interest component provided annually by the BOE, adding components for risk and property taxes. The assessor uses a risk rate of 0.5 percent for all of the properties under contract, which are primarily non-prime grazing lands. The assessor uses the tax rate specific to the location of the property.

We reviewed several CLCA assessments and found the assessor has an efficient and organized program in place to value these properties. However, we found some areas where improvement is needed.

**RECOMMENDATION 6:** Improve the CLCA program by: (1) correctly estimating the value of nonliving improvements, (2) enrolling the correct value for properties subject to terminating restrictions, and (3) correctly assessing homesites on CLCA land.

**Correctly estimate the value of nonliving improvements.**

In estimating the value of the nonliving improvements, we found the assessor capitalizes the income attributable to nonliving improvements (such as irrigation systems) required for prime acreage using the restricted capitalization rate. The assessor then adds this capitalized value to the total unrestricted nonliving improvement value. Use of a restricted capitalization rate to value unrestricted nonliving improvements is not correct. In addition, the assessor is adding income attributable to irrigation systems required for prime acreage when no irrigation system was listed on the assessor's miscellaneous improvement records.

Section 423(e) allows for restricted valuation of the nonliving improvements that contribute to the income of the land if the CLCA contract specifically contains a provision allowing this. However, there is no provision in the Orange County CLCA contract allowing for the restricted valuation of nonliving improvements. The assessor's practice of capitalizing the income attributable to unrestricted property at the restricted rate is contrary to statute and results in the underassessment of nonliving improvements.

**Enroll the correct value for properties subject to terminating restrictions.**

We found the assessor enrolls the factored base year value (FBYV) for property leaving restricted status through the nonrenewal process, even when the worksheet shows the current market value is less than the FBYV.

In following the valuation procedures set forth in section 426 for land subject to a terminating restriction, it is possible for the value calculated to exceed the FBYV or the current market value. At the end of the nonrenewal process, when a property is leaving restricted status, there are only two values to compare, the FBYV and the current market value. Since article XIII A requires the assessor to enroll, for each lien date, a taxable value that is the lesser of a property's FBYV or its current market value, as defined in section 110, the assessor should enroll the lower of the values. The assessor's practice of not enrolling the lowest value is contrary to statute and may result in the overassessment of properties in nonrenewal.
Correctly assess homesites on CLCA land.

We found the assessor has inconsistently assessed homesites on CLCA land. On one property, the assessor included a homesite assessment when there were no residential improvements. On another property, the assessor established the value of a newly created homesite using current market value as of the date of the creation of the homesite and added this to the existing land value.

Pursuant to section 428, the restricted valuation standard for CLCA land does not apply to residential improvements or the homesite on which such improvements are situated. Without residential improvements, it is inappropriate to designate a homesite on CLCA land.

Further, a homesite, together with the related residential improvements, must be treated as a separate appraisal unit and enrolled at the lesser of its FBYV or current market value. In accordance with AH 521, the value for the land allocated to the homesite should be based on the estimated market value of a comparable homesite as of the date of the most recent change in ownership. The value should then be indexed up to the date the homesite was created.

Adherence to the appropriate statutory provisions and applicable BOE guidance will ensure the correct assessment of homesites and the uniform treatment of taxpayers.

**Taxable Possessory Interests**

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

Taxable possessory interests in Orange County are located on property owned by approximately 113 public agencies. They include a wide variety of uses including, but not limited to, fairground vendors and concessionaires, employee housing, summer cabins, hangars and tie downs at municipal airports, cable television franchises, and marinas. For the 2009 lien date, there were 6,757 possessory interest assessments in Orange County with a total gross assessed value of $2,824,543,067.

The assessor discovers taxable possessory interests by reviewing reports from government agencies, from field inspections, and from news reports. The assessor annually mails BOE-502-P, *Possessory Interests Annual Usage Report*, to each government agency in the county. The assessor reports a response rate of approximately 90 percent.

The majority of possessory interests are valued by two appraisers, who are supported by a senior appraiser in the special projects section of the real property division. These appraisers generally use spreadsheets created in-house to value possessory interest parcels. These spreadsheets are updated yearly to account for the declining terms of most leases, as well as changes in rent and
expenses when necessary. A senior auditor-appraiser in the business property division appraises
the cable television taxable possessory interests.

We reviewed the assessment of several taxable possessory interests and found areas in need of
improvement.

**RECOMMENDATION 7:** Improve the taxable possessory interest program by:
(1) valuing taxable possessory interests in faculty housing
at the University of California at Irvine in accordance with
Rule 21, (2) using the stated term of possession as the
reasonably anticipated term of possession in accordance
with Rule 21 when valuing taxable possessory interests,
(3) not assessing a taxable possessory interest to a public
user of public lands, and (4) issuing supplemental assessments
on all qualifying taxable possessory interests.

**Value taxable possessory interests in faculty housing at the University of California at
Irvine in accordance with Rule 21.**

Faculty members hold taxable possessory interests in faculty housing at the University of
California at Irvine. We found that the assessor does not value such interests using one of the
prescribed methods in Rule 21(e).

The assessor's method for valuing these taxable possessory interests upon a change in ownership
can be summarized as follows:
- The appraiser assumes that the sale price represents the purchase price of the
  improvements only. From the reported sale price, the appraiser subtracts the present value
  of the reversionary value of the improvements at the end of the term of possession in
  order to arrive at the estimated value of the improvements on the sale date.
- To arrive at the estimated value of the taxable possessory interest in the land, the
  appraiser subtracts the present value of the future value of the land as of the end of the
  term of possession, as if owned in fee, from the current market value of the land, as if
  owned in fee. This value is added to the estimated value of the improvements as
determined in the preceding paragraph and the sum enrolled as the new base year value
for taxable possessory interest.

This procedure improperly mixes elements from two of the prescribed methods in Rule 21(e) for
valuing taxable possessory interests, the comparative sales approach – direct method (see Rule
21(e)(1)(A)) and the cost approach (see Rule 21(e)(2)). More specifically, the use of the
comparative sales approach – direct method to estimate the market value of the improvements is
incorrect. This approach is used to estimate the market value of the entire taxable possessory
interest, not the value of the improvements only. Subtracting a reversionary improvement value
from the sale price also confounds the comparative sales approach – direct method with the cost
approach. When using the comparative sales approach – direct method, no reversionary value
should be subtracted.
The failure to use a proper valuation method to establish the new base year values of taxable possessory interests leads to the enrollment of a base year value that is incorrect. Taxable values on subsequent lien dates may also be incorrect because the annual comparison between factored base year value and current market value under section 51(a) is flawed.

Use the stated term of possession as the reasonably anticipated term of possession in accordance with Rule 21 when valuing taxable possessory interests.

The assessor does not always use the stated term of possession when determining the market value of taxable possessory interests. We found cases involving faculty housing where the stated term of possession is 99 years, but the assessor used a term of 20 or 30 years to value the taxable possessory interest. The assessor maintains that a 99-year term of possession is unreasonable, because the lessee will not remain in possession of the property for 99 years. We also found inconsistencies where the assessor used a 20-year term of possession for one roll year and a 30-year term for the following roll year.

Rule 21(d)(1) provides that 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 (lessor) and the private possessor (lessee) have reached a mutual understanding or agreement that the reasonably anticipated term of possession is shorter or longer than the stated term of possession. Rule 21(a)(6) also states that the "stated term of possession" for a taxable possessory interest is the remaining period of possession as of the date specified in the instrument that created, extended, or renewed the taxable possessory interest. Since the assessor does not have clear and convincing evidence that the parties involved in these leases have agreed to a term other than that specified in the lease instrument, the assessor should use the stated term of possession.

The assessor's use of a term of possession different from the stated term of possession is contrary to Rule 21 and may result in incorrect assessments.

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

The assessor has assessed taxable possessory interests in property owned by the California Department of Transportation (CalTrans) and leased to local municipalities.

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

Possession of a possessory interest is typically encumbered by a contractual agreement for a specific period of time; therefore, the possessor of a possessory interest has a leasehold interest in the real estate, and not fee ownership of the real property. In addition, AH 510, Assessment of Taxable Possessory Interests, defines a taxable possessory interest as the taxable interest held by
a private possessor in publicly owned real property. A municipality does not incur a private benefit.

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

**Issue supplemental assessments on all qualifying taxable possessory interests.**

Upon a change in ownership of a taxable possessory interest, the assessor establishes a new base year value. However, the assessor does not issue a supplemental assessment for taxable possessory interests enrolled on the unsecured roll.

Section 75.14 provides that all property subject to the assessment limitations of article XIII A shall be subject to supplemental assessment. Taxable possessory interests are real property and are subject to supplemental assessment whenever there is a change in ownership or completed new construction. The assessor's practice is contrary to property tax law and results in a loss of tax revenue.

**Restricted Historical Property**

Government Code section 50280 provides that an owner or agent of an owner of a qualified historical property may enter into a contract with the legislative body of a city, county, or city and county restricting the use of that property in exchange for valuation according to a statutorily prescribed capitalization of income method. Such contracts are commonly referred to as "Mills Act" contracts. For assessment purposes, qualified historical property under such a contract is referred to as "restricted historical property." Section 50280.1 provides that in order for a property to qualify as historical property, it must be listed on the National Register of Historic Places or be listed on a state, county, or city register as historically or architecturally significant.

Restricted historical properties are assessed annually at the lowest of the factored base year value, the current market value, or the restricted value. The restricted value must be determined by the income capitalization method, as provided in section 439.2. In this method, a fair or market rent less "ordinary and necessary" expenses is capitalized by a rate that is not derived from the market but is a summation of:

- An interest component that is determined annually by the BOE;
- A risk component of two percent (four percent if the property is owner-occupied);
- A component for property taxes; and
- A component for amortization of the improvements.

For the 2009-10 roll year, there were 634 historical properties in Orange County, with a net taxable value of $153,943,110. This is an increase of 283 properties over a five-year period. This increase is due to the allowance of more Mills Act contracts for the cities of Anaheim, Orange, and Santa Ana.
The following table illustrates the most recent data available for historical properties and their roll values:

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>HISTORICAL PROPERTIES</th>
<th>ROLL VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>634</td>
<td>$153,943,110</td>
</tr>
<tr>
<td>2008-09</td>
<td>606</td>
<td>$136,329,486</td>
</tr>
<tr>
<td>2007-08</td>
<td>520</td>
<td>$106,599,073</td>
</tr>
<tr>
<td>2006-07</td>
<td>445</td>
<td>$98,230,697</td>
</tr>
<tr>
<td>2005-06</td>
<td>351</td>
<td>$65,077,661</td>
</tr>
</tbody>
</table>

The assessor uses a worksheet to process the income stream into an indicator of the restricted value of the historical property. There is currently one historical property contract in nonrenewal status.

We reviewed several historical property appraisal files and records. Some of the historical property preservation agreements have been scanned into the computer system, while the others can be accessed from the recorder's system. We found one area in the assessor's program for historical properties in need of improvement.

**RECOMMENDATION 8:** Improve restricted historical property assessments by properly applying the property tax component when valuing historical properties.

When using triple-net rents to value historical properties, the assessor includes the property tax component in the overall capitalization rate. This results in a duplicate deduction of the property taxes.

Rule 8(c) provides that the income to be capitalized is the net return, which is the difference between gross return and gross outgo (expenses), and that property taxes are excluded from gross outgo. Rule 8(f) provides that the capitalization rate is to include a property tax component, where applicable, equal to the estimated future tax rate for the area times the assessment ratio. Property taxes that are paid by the owner are accounted for by the inclusion of the tax component in the capitalization rate. With triple net rents, the responsibility for paying property taxes is passed through to the tenant and is not an expense borne by the owner. Therefore, the capitalization rate should not include a property tax component. Inclusion of the property tax component in the capitalization rate when capitalizing triple net rents results in underassessments.

**Leasehold Improvements**

Leasehold improvements are all improvements or additions to leased property that have been made by the tenant or lessee. Such improvements can be secured to the real property or assessed to the lessee on the unsecured assessment roll.
Commercial, industrial, and other types of income-producing properties require regular monitoring by the assessor because, as tenants change over time, they may add and/or remove improvements that may result in a changed use of the property. These changes must, by law, be reflected in the property's assessment if they qualify as new construction.

When real property is reported on BOE-571-L, Business Property Statement (BPS), coordination between the real property and business property divisions of the assessor's office is important. The reported cost should be examined by both an appraiser in the real property division and an auditor-appraiser in the business property division. The divisions should determine the proper classification of the property to ensure appropriate assessment by each division and to avoid escape and double assessments. The assessor must determine whether costs are for repair and maintenance and are, therefore, not assessable, whether additions are properly classified as structural improvements or fixtures, and/or if additions are properly enrolled.

The primary discovery tools for leasehold improvements are reviewing BPSs and building permits. Other discovery tools include reviews of leases, field observations, news, internet, and audits of business records.

In Orange County, the assessor has developed a program to assess leasehold improvements that combines the resources of the real property and business property divisions. When the business property division identifies leasehold improvements that are not clear as to classification, they are referred to the real property division to determine whether they are (a) assessable as new construction or (b) nonassessable because they represent replacement or repair of existing improvements. When a permit for new construction involving leasehold improvements is received by the real property division, they contact the business property division to determine who will assess the new construction. Coordination via email or verbal discussion between the auditor-appraiser and the appraiser takes place in an effort to avoid escapes or double assessments.

We noted an area in need of improvement in the assessor's valuation program for leasehold improvements.

RECOMMENDATION 9: Assess all wireless communication tower sites delegated for local assessment.

The assessor is not assessing all locally-owned wireless communication tower sites that were delegated for local assessment by the BOE in Letters To Assessors (LTA) No. 2001/024, dated April 11, 2001. The assessor's real property and business property divisions are working to comply by re-parceling approximately 76 former BOE parcels to standard parcels and identifying the parcels that contain cell towers. However, all parcels with wireless communication tower sites delegated for local assessment have not been assessed.

LTA No. 2001/024 provided that, for lien date 2001, the BOE delegated to county assessors the duty to assess leased wireless communication tower sites whenever constitutionally permissible. As a result, the assessment of wireless communication tower sites that are used but not owned by state assesses are the responsibility of the county assessors. By failing to timely assess these tower sites, the assessor is allowing real property to escape assessment.
Mineral Property

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

Petroleum Properties

Petroleum property mineral rights refer to the rights to remove petroleum and natural gas from the earth. Pursuant to Rule 468, the right to remove petroleum and natural gas from the earth is a taxable real property interest.

Orange County has three active fields located in state waters and seven active onshore. These are appraised under the direction of a senior appraiser. Over the last several years, the county has seen a significant reduction in petroleum production as properties reach their economic limit and are abandoned.

RECOMMENDATION 10: Review discounted cash flow procedures for valuing petroleum properties to better follow generally accepted appraisal standards.

While the assessor's appraisals of petroleum properties are well documented, there are some practices that should be reviewed to ensure accurate appraisals. The first relates to expense data used in the cash flow analysis. The assessor declines the projected operating costs at the same rate as the decline in production. This is atypical of the relationship between oil production and operating costs. Operating costs are more closely associated with total fluid production from a petroleum property, and for many fields, these costs actually increase as the rate of petroleum production decreases. This is typically due to increased costs associated with water disposal. The assessor's practice of declining operating costs as production declines will tend to overstate property values.

A second area that should be reviewed involves decline rates. The decline rates for the fields in Orange County are very shallow, and an error determining the best rate could affect reserves estimates by as much as 50 percent. For one field, the notes on a 2008 appraisal indicated a decline rate of 2 percent. However, the parameters input into the cash flow analysis program indicate that a rate of 1 percent was used. The increase in reserves resulting from this change is substantial. A review of the production information available from the Division of Oil, Gas, and Geothermal Resources indicates a decline rate near 1.8 percent over the entire life of the property. Analysis of specific segments of the production graph will yield rates anywhere from 8 percent to less than 1 percent. The decline rate for the most recent production calculated to 0.62 percent. Decline analysis is as much art as it is science and one of the key areas of petroleum appraisal subject to appraiser judgment. The intent is to select a decline rate that will most likely model future expectations about performance. Computer analysis of decline trends greatly assists in the determination of declines rates.
ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

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

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

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

Audit Program

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

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

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

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Audits Scheduled</td>
<td>1,670</td>
<td>1,577</td>
<td>1,704</td>
<td>1,457</td>
<td>1,650</td>
</tr>
<tr>
<td>Audits Carried Over from Prior Year</td>
<td>97</td>
<td>101</td>
<td>39</td>
<td>97</td>
<td>57</td>
</tr>
<tr>
<td><strong>Total Audit Workload</strong></td>
<td>1,767</td>
<td>1,678</td>
<td>1,743</td>
<td>1,554</td>
<td>1,707</td>
</tr>
<tr>
<td>Audits Completed</td>
<td>1,595</td>
<td>1,581</td>
<td>1,642</td>
<td>1,515</td>
<td>1,610</td>
</tr>
<tr>
<td>Audits Carried Forward</td>
<td>172</td>
<td>97</td>
<td>101</td>
<td>39</td>
<td>97</td>
</tr>
</tbody>
</table>

As of the date of this survey, audits are the responsibility of 28 line staff auditor-appraisers and 4 senior auditor-appraisers, who are all under the direction of the managing auditor-appraiser.

The amended statute requires the assessor to complete 1,014 audits per year hereafter. During the 2008-09 roll year, the assessor completed 1,595 mandatory audits. As of January 31, 2010, the assessor had completed 636 audits. We found the assessor will complete the newly-defined number of audits required by section 469.

**Statute of Limitations**

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

The assessor requests waivers of the statute of limitations from taxpayers when he anticipates an audit will not be completed in a timely manner. We sampled a number of waivers on record and found them to be adequately prepared and well managed.

**Audit Quality**

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

We sampled several recently completed audits and found the audits were thoroughly conducted, well documented, and adequately referenced. We further found the assessor verifies leased equipment, enrolls construction in progress, accounts for supplies, and properly classifies equipment, among other things. Lastly, we reviewed the assessor's processing of roll corrections to reflect audit findings. When correcting for multiple year audit findings, the assessor properly
enrolls roll corrections for each year in which the escape assessment took place pursuant to section 533.

Overall, the assessor's audit program is effectively managed. However, there is one area where we found room for improvement.

**RECOMMENDATION 11:** Use a comprehensive audit checklist as a standard component of the audit program.

Frequently, during our review of sampled audits, 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 which topics were covered during the course of the audit and whether the findings are sufficiently supported. A prudently-managed audit program typically includes an audit checklist. A sample audit checklist is contained in Appendix E of Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures* (AH 504).

**Business Property Statement Program**

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

The following table displays the assessor's workload of secured and unsecured BPSs and assessments for the 2009-10 roll year:

<table>
<thead>
<tr>
<th>TYPE OF PROPERTY STATEMENTS</th>
<th>TOTAL</th>
<th>SECURED VALUE</th>
<th>UNSECURED VALUE</th>
<th>TOTAL ASSESSED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Business</td>
<td>101,336</td>
<td>$3,261,542,944</td>
<td>$14,221,186,445</td>
<td>$17,482,729,389</td>
</tr>
<tr>
<td>Agricultural</td>
<td>40</td>
<td>$467,383</td>
<td>$3,779,107</td>
<td>$4,246,490</td>
</tr>
<tr>
<td>Apartments</td>
<td>840</td>
<td>$16,943,598</td>
<td>$48,206,515</td>
<td>$65,150,113</td>
</tr>
<tr>
<td>Financial</td>
<td>1,500</td>
<td>$5,175,369</td>
<td>$168,249,855</td>
<td>$173,425,224</td>
</tr>
<tr>
<td>Leased Equipment</td>
<td>1,748</td>
<td>$0</td>
<td>$1,563,917,389</td>
<td>$1,563,917,389</td>
</tr>
<tr>
<td>Service Stations</td>
<td>850</td>
<td>$37,657,134</td>
<td>$146,526,839</td>
<td>$184,183,973</td>
</tr>
<tr>
<td>Other</td>
<td>405</td>
<td>$863,248,291</td>
<td>$1,386,796,911</td>
<td>$2,250,045,202</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>106,719</td>
<td><strong>$4,185,034,719</strong></td>
<td><strong>$17,538,663,061</strong></td>
<td><strong>$21,723,697,780</strong></td>
</tr>
</tbody>
</table>

There are ten permanent certified auditor-appraisers in the business property division that process BPSs on a regular basis. During processing season, additional staff is sometimes borrowed from other sections in the business property division. A managing auditor-appraiser, along with a senior auditor-appraiser, lead appraisal functions during processing season.

General Statement Processing

Once completed BPSs are received, assessor's technicians begin their processing by date stamping and screening them for completeness and the inclusion of an authorized signature. Sufficiently completed BPSs are then batched for valuation. Those submitted without an authorized signature are returned to the property owner along with a letter indicating the reason for the BPS rejection. Once screened and batched, BPSs are forwarded to the document storage and retrieval division for scanning into the assessor's workflow program. Lead personnel assign BPS processing workload to individual auditor-appraisers based upon experience and competency levels. The assessor's workflow system allows for the availability of BPS status information in real time. The date of submission is reflected in the computer program when the BPSs are originally batched. The system applies a section 463 penalty to all BPSs not reflecting a submission date prior to the statutory deadline of May 7.

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. All BPSs sampled evidenced the proper usage of Board-prescribed forms, were completed in sufficient detail, and were properly signed.
Discovery

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

Filing Procedures

Our review included verifying the assessor's procedures for processing late and non-filed BPSs. We found the assessor applies the late-filing penalty in accordance with section 463. Furthermore, habitual non-filers are flagged for a field review after failing to file for three consecutive years. However, in certain circumstances, the penalty is incorrectly applied.

**RECOMMENDATION 12:** Value taxable business property in accordance with section 501, when a taxpayer fails to file a business property statement.

When a completed BPS is submitted late, the assessor correctly calculates the current market value of known taxable business property owned and controlled by the property owner and applies the statutorily-defined 10 percent penalty. However, in cases where the BPS is not returned, the assessor does not calculate the current market value of the known taxable business property; he simply applies a pre-determined escalation rate to the previous year's enrollment. During the 2009-10 roll year, the escalation rate was 10 percent. During the previous three roll years, the escalation rate was 20 percent.

Section 441(b) provides that a BPS is considered late if it is not filed by May 7. 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 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 enrollments 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.

Direct Billing

Many California assessors utilize an assessment procedure known as "direct billing" or "direct assessment." It is a method of assessing qualified lower-value business accounts without the annual filing of a BPS. The assessor establishes an initial value and continues it for several years. The filing of a BPS is required periodically. Examples of businesses suitable for direct billing include apartments, barber shops, beauty parlors, coin-operated launderettes, small cafes, restaurants, and professional firms with small equipment holdings.
The direct billing program is beneficial to the taxpayer and the assessor. It results in a reduction of paperwork for taxpayers and fewer BPSs that must be processed annually by the assessor's staff, thereby increasing time available for the auditor-appraisers to perform other required duties.

In Orange County, the assessor maintains a significant direct billing program with 23,535 accounts during the 2009-10 roll year. The program is well regulated and appropriate controls are in place to reduce the chance of escape assessments. One such control is the assessor's requirement that participating businesses file a BPS every four years to update taxable equipment information.

**Business Equipment Valuation**

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

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

The assessor uses Standardized Industry Codes (SIC codes) to classify business property accounts by industry type in the computer system. 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 Board-Recommended 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, high tech medical equipment, and photocopiers) that the CAA recommends should not be trended. We found the assessor has mechanisms in place to ensure the consistent application of the CAA and Board-recommended valuation tables.

**Mobile Construction and Agricultural Equipment Valuation Factors**

Instructions pertaining to Table 5 and Table 6 in AH 581 designate the use of mobile equipment valuation tables for the valuation of new and used mobile agricultural and construction equipment.
RECOMMENDATION 13: Use the Board-recommended factor tables as intended when valuing mobile agricultural equipment.

We found the assessor is not using Board-recommended factor tables as intended. We reviewed the assessor's factor tables, in addition to several processed BPSs with agricultural equipment, and found the assessor maintains only one factor table for mobile agricultural equipment designated in AH 581 to be used only for equipment purchased new. The assessor's other agricultural valuation tables are identical to his commercial and industrial valuation tables, and do not contain the agricultural trending component as recommended in AH 581. In addition, we found many instances where the assessor valued mobile agricultural equipment, such as tractors and implements, using agricultural tables derived from Board-recommended trending and percent good factors intended for nonagricultural commercial equipment. Furthermore, we found the assessor appears to rarely apply the mobile agricultural equipment tables he does have when merited.

AH 581 is recommended for assessors' use unless more reliable data are available. The BOE recommends that any deviation from them be based on well-documented research and analysis of additional market data. The application of standard commercial valuation tables or tables intended for the valuation of equipment other than agricultural equipment would likely result in erroneous market value indicators and ultimately inaccurate assessed values.

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. To ensure consistent pro-ration of reported machinery and equipment to fixtures and personal property, the assessor utilizes standardized industry codes to provide guidance to BPS processors when estimating fixed machinery and equipment allocations.

Overall, the assessor has strong procedures in place to ensure accurate classification of business personal property, with the exception of apartment personal property. Personal property in apartment complexes is assessable and reportable on the annual BOE-571-R, Apartment House Property Statement. Such personal property includes, but is not limited to, refrigerators, freestanding electrical stoves, gym equipment, pool equipment, laundry equipment, maintenance equipment, office furniture, and common area furniture.

RECOMMENDATION 14: Properly classify and assess personal property in apartment complexes pursuant to section 602.

We found the assessor fails to separately enroll personal property located at many of the smaller apartment complexes in Orange County, particularly those with 50 units or less. The assessor may continue to send BPSs to such complexes, but does not enroll the reported personal property. Even in the case of the larger complexes, it appears the assessor does not enroll refrigerators and free-standing stoves located in the unfurnished units. We reviewed a random sampling of smaller multi-residential assessments and found several properties likely to own
taxable personal property with no separately-assessed personal property or trade fixtures on the 2009-10 assessment roll.

Section 602 requires taxable property to be classified by type on the assessment role. Rules 121 through 124 provide guidance in the proper classification of property. If personal property is not separately assessed, then the entire value of the property will likely be allocated and enrolled as structural improvements and land upon future sales. Misclassifying personal property in apartment appraisals as real property improvements overstates the real property assessment, while understating the personal property assessment. In general, the taxable value of structural improvement increases annually due to the application of the article XIII A inflation factor, while personal property generally depreciates in value over time. Additionally, real property improvements are subject to supplemental assessments, whereas, personal property is not. The assessor’s practice not only fails to conform to section 602, but likely leads to the underassessment of taxable personal property.

**Leased Equipment**

The business property division is responsible for the discovery, valuation, and assessment of leased equipment. This type of property is one of the more difficult to assess correctly. Common problems include difficulty in establishing taxability and taxable situs, reporting errors by lessees and lessors, valuation (whether the value of the equipment should be the lessor's cost or the cost for the consumer purchasing the equipment), and double or escape assessments resulting from combined lessor and lessee reporting. These issues are discussed in detail in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*.

Assessee's are required to report all leased property (taxable property in their possession, but belonging to others) on their annual BPS. Also, they are required to provide information on the type of property, year of acquisition and manufacture, cost to purchase new, description or lease number, and the owner's name and address. A cross-check of information reported by lessors and lessees verifies the accuracy of the reported information.

All BPSs submitted by leasing companies are first routed to an assessment technician, who date-stamps the BPS and updates the status code in the mainframe to reflect the submission. Due to the specialized nature of leased equipment valuation, the completed BPSs bypass the assessor’s workflow program and are processed by one of the four auditor-appraisers assigned to the leasing section. An auditor-appraiser reviews reported leased equipment for assessability and assigns valuation tables. Either an auditor-appraiser or an assessment technician may input the reported cost data. To facilitate proper enrollment, leased equipment and remarks screens are routinely updated for both lessors and lessees. When processing lessee's BPSs, which include leased equipment reported on Part III of the BOE-571, the auditor-appraisers cross-reference the reported information against the enrolled leased equipment screen maintained for the lessor to determine if the equipment is already assessed. If the reported leased equipment has not been enrolled, the processor will enroll the equipment on the lessee's account and contact the lessor. This exercise helps to avoid possible double assessments. Additionally, it helps ensure the accuracy of the reported cost and acquisition data.
We reviewed the BPSs of several lessors and lessees that were recently processed. We focused our investigation on the valuation methods applied, completeness of reporting, tracking of equipment, correct assessee designation, expired lease disposition, and processing procedures. The assessor maintains strong procedures for the enrollment and tracking of leased equipment. The assessor's appraisal staff properly distinguishes between leases and conditional sales contracts, and follows correct appraisal and assessment procedures.

**Expired Leases**

When property is leased, both lessors and lessees should report such property on their BPSs. At the end of a lease, the lessee may acquire the equipment or return it to the lessor. Procedures should be in place to identify the disposition of leased equipment upon termination of a lease.

When a lessee obtains ownership and retains possession of equipment at the end of the lease, the assessor should confirm that the lessee continues to report the property. A cross-check of information reported by lessors and lessees verifies the accuracy of the reported information. In Orange County, lessor BPSs indicating leases that have been cancelled are flagged for further review and later cross-referenced with the former lessee's enrolled equipment to ensure the formerly leased equipment has not escaped assessment. Further steps may be taken, such as mail or phone correspondence, to ascertain the status of the formerly leased equipment. We examined multiple examples establishing the assessor is properly following up on lease expiration notifications and adequately documenting the steps taken. The assessor has strong procedures in place to minimize the possibility of escapes occurring subsequent to the transfer of leased equipment from the lessor to the lessee.

**Manufactured Homes**

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

There are currently 205 mobilehome parks in Orange County and nearly all of the manufactured homes in the county are located in these parks. For the 2009-10 roll year, there were approximately 19,450 homes located in parks, with a total assessed value of $563,169,780. Manufactured homes are identified by using fictitious map book numbers.

The appraisal of manufactured homes in Orange County is the responsibility of the manufactured homes and tracts section. One appraiser in this unit is responsible for the majority of assessments of all manufactured homes located throughout the county. Occasionally, other appraisers in that section assist in the assessment of manufactured homes. The assessor uses the *National Automobile Dealers Association Manufactured Housing Cost Guide* (NADA) and Assessors' Handbook Section 531.35, *Manufactured Housing* (AH 531.35), among other sources, to value manufactured homes. The assessor's computer system tracks and compares the factored base year
value and market value of manufactured homes on an annual basis. The lower of the two values is automatically enrolled each lien date.

The assessor learns of sales, new installations, and voluntary conversions of manufactured homes through periodic Department of Housing and Community Development listings. These printouts list the grantor's and grantee's names, date of purchase, purchase price, decal number, date of manufacture, and manufacturer's name. Other discovery sources utilized by the assessor are the dealer reports of sale, contact from previous or current owner(s), building permits, and field inspections.

We reviewed a number of manufactured home assessments, including transfers and new installations of manufactured homes. The assessor's manufactured home program is well administered. Discovery procedures are good and new construction and accessories are assessed properly. The program for valuing manufactured homes is effective and conforms to statutory provisions.

**Aircraft**

**General Aircraft**

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

For the 2009-10 roll year, the assessor enrolled 952 aircraft with a total assessed value of $1,054,078,509.
The following table provides a breakdown of aircraft enrolled in Orange County during the surveyed year:

<table>
<thead>
<tr>
<th>AIRCRAFT TYPE</th>
<th>NUMBER OF ASSESSMENTS</th>
<th>VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Aircraft</td>
<td>879</td>
<td>$532,740,273</td>
</tr>
<tr>
<td>Commercial Aircraft Fleets</td>
<td>15</td>
<td>$432,773,230</td>
</tr>
<tr>
<td>Historical Aircraft – Exempt</td>
<td>30</td>
<td>$12,856,866</td>
</tr>
<tr>
<td>Historical Aircraft – Not Exempt</td>
<td>23</td>
<td>$3,488,188</td>
</tr>
<tr>
<td>Fractionally Owned Aircraft</td>
<td>5</td>
<td>$72,219,952</td>
</tr>
<tr>
<td>Total Aircraft Assessments</td>
<td>952</td>
<td>$1,054,078,509</td>
</tr>
</tbody>
</table>

In Orange County, four auditor-appraisers, a senior auditor-appraiser, and a managing auditor-appraiser are responsible for all aircraft valuations. The assessor discovers aircraft through airport operators' reports and referrals from other counties.

In Orange County, four auditor-appraisers, a senior auditor-appraiser, and a managing auditor-appraiser are responsible for all aircraft valuations. The assessor discovers aircraft through airport operators' reports and referrals from other counties.

Each year, the assessor mails BOE-577, *Aircraft Property Statement*, to the known aircraft owners in the county requesting current information on all aircraft costing over $30,000. The form requests the owner to report engine information, air hours since the last major overhaul, airframe time, avionics equipment, overall condition, current situs information, and transfer information if applicable. The aircraft property statement has a filing deadline of April 1 and the assessor imposes a 10 percent penalty for failure to file and late filings.

Upon receipt and review for completeness, the aircraft property statements are scanned and uploaded into the assessor's assessment tax system's business property statement marine and aircraft workflow. They are then tracked, routed, pre-assigned, assigned, and worked from the workflow queues.

The assessor uses the required primary value guide, *Aircraft Bluebook Price Digest*, to appraise general aircraft. In accordance with Letters To Assessors (LTA) No. 97/03, the assessor adjusts the listed retail values downward by 10 percent to provide reasonable estimates of fair market value for aircraft in truly average condition on the lien date.

We reviewed several general aircraft records for valuation methodology, legal signatures, and the application of late or failure-to-file penalties pursuant to section 5367. We found that the assessor's procedures for the discovery, valuation, and assessment of general aircraft conform to statutory provisions and guidelines set forth in Assessors' Handbook Section 577, *Assessment of General Aircraft (AH 577)*, and LTA No. 97/03.

Fractionally Owned Aircraft

Fractionally owned aircraft are fleets of aircraft managed and maintained by an operating company where ownership is distributed on a fractional basis similar to a timeshare in real
property. The management company handles all operating requirements of the aircraft, including availability, maintenance, billings, shareowner usage, training, and flight crews.

Pursuant to section 1161, fractionally owned aircraft are assessed on a fleet-wide basis to the manager in control of the fleet. Like certificated aircraft, fractionally owned aircraft are assessed on an allocated basis using an "allocation factor." This allocation factor is a fraction, the numerator of which is the total number of landings and departures made by the fleet type in the county during the previous calendar year, and the denominator of which is the total number of landings and departures made by the fleet type worldwide during the previous calendar year.

Section 1162 contains a provision for the appointment of a lead county assessor's office to facilitate property reporting, allocation calculations, the transmittal of allocated values to other jurisdictions where situs has been established, and provide for coordinated multi-county audits.

We reviewed the assessor's procedures for the valuation of fractionally owned aircraft. Orange County currently serves as the lead county to one fractionally owned fleet. We found the allocated value was accurately calculated on the basis of arrivals and departures in the county in accordance with section 1161.

Certificated Aircraft

Certificated aircraft are aircraft operated by air carriers (including air taxis that are operated in scheduled air taxi operation). Unlike general aircraft, which are normally assessed at the place where they are "habitually located" on the lien date, the assessments of certificated aircraft are allocated among taxing jurisdictions based upon ground and flight time and the number of arrivals and departures during a representative period (designated by the BOE). Certificated aircraft are assessed in accordance with the methods described in section 401.17.

Fifteen commercial air carriers flew in and out of John Wayne Airport in Orange County during the 2008 calendar year. The auditor-appraisers responsible for the appraisal of certificated aircraft process the BPSs and calculate the pro-rated value for each aircraft according to the methodology set forth by the California Assessors' Association Aircraft Subcommittee. Appraisals of this type are predicated upon the reported costs indicated on the air carrier's BPSs and indicated wholesale values from the Airline Price Guide.

We reviewed the assessor's certificated aircraft appraisal procedures, in addition to a sample of processed air carrier BPSs, and found the program to be correctly administered and the estimates of values to be accurately calculated pursuant to section 401.17.

Historical Aircraft

Aircraft of historical significance can be exempted from taxation if they meet certain requirements. Section 220.5 defines "aircraft of historical significance" as: (1) an aircraft that is an original, restored, or replica of a heavier than air, powered aircraft 35 years or older; or (2) any aircraft of a type or model of which there are fewer than five such aircraft known to exist worldwide.
The historical aircraft exemption is not automatic. Each year, the owner of a historical aircraft must submit an affidavit on or before 5:00 p.m., February 15, paying a filing fee of $35 upon the initial application for exemption. Along with these requirements, aircraft of historical significance are exempt only if the following conditions are met: (1) the assessee is an individual owner who does not hold the aircraft primarily for purposes of sale; (2) the assessee does not use the aircraft for commercial purposes or general transportation; and (3) the aircraft was available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which exemption is claimed.

There were 53 historical aircraft assessed on the 2009-10 assessment roll in Orange County with a total value of $16,345,054. Of the 53 historical aircraft, 30 met the requirements for exemption from property taxation. For those 30 historical aircraft, the assessor properly obtained signed affidavits in the Board-prescribed format and certification of attendance pursuant to section 220.5. We reviewed several historical aircraft assessments and exemption claims. We found the assessor properly granted the exemption when the statutory requirements were met. We also were able to confirm the assessor properly denied the exemption when the statutory requirements were not met and allowed the partial exemption when merited in accordance with section 276.5.

**Vessels**

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

Orange County is a coastal community with an active pleasure boat and commercial fishing industry. The assessor enrolled 35,924 vessels on the 2009-10 assessment roll, with a total assessed value of $1,129,294,765. The assessor utilizes DMV monthly transaction reports, marina reports, field canvasses, owner notification, and referrals from other counties as methods of discovery.

Sections 401 and 401.3 require the assessor to assess vessels at market value each year. The assessor appraises vessels when newly enrolled in the county. He then applies a depreciation adjustment to arrive at values for subsequent lien dates. Orange County has a low-value property exemption ordinance for property valued at less than $1,350. The assessor reports he has 31,065 vessels exempted under this ordinance.
The following table shows the number and value of vessels assessed in Orange County for recent years:

<table>
<thead>
<tr>
<th>ROLL YEAR</th>
<th>PLEASURE VESSELS</th>
<th>ASSESSED VALUE</th>
<th>DOCUMENTED VESSELS</th>
<th>ASSESSED VALUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009-10</td>
<td>35,867</td>
<td>$1,097,047,411</td>
<td>57</td>
<td>$32,247,354</td>
</tr>
<tr>
<td>2008-09</td>
<td>39,475</td>
<td>$1,148,001,582</td>
<td>55</td>
<td>$31,747,654</td>
</tr>
<tr>
<td>2007-08</td>
<td>37,495</td>
<td>$1,181,971,952</td>
<td>55</td>
<td>$32,431,441</td>
</tr>
<tr>
<td>2006-07</td>
<td>37,863</td>
<td>$1,080,695,390</td>
<td>66</td>
<td>$29,926,733</td>
</tr>
<tr>
<td>2005-06</td>
<td>37,044</td>
<td>$1,004,277,425</td>
<td>68</td>
<td>$33,771,053</td>
</tr>
</tbody>
</table>

Four certified auditor-appraisers are responsible for administering the assessor's vessel program. The assessor values newly enrolled vessels predominately with the aid of the National Automobile Dealers' Association Marine Appraisal Guide (NADA) and BUC Used Boat Price Guide (BUC). The assessor correctly adds a sales tax component; makes adjustments for vessel condition, motor, motor condition, and accessories; and deducts for trailers as appropriate.

Vessel Property Statements

The assessor sends BOE-576-D, Vessel Property Statement, annually to the registered owners of all vessels in the county that have a vessel aggregate cost of $100,000 or more, or when a documented vessel has undergone a change in ownership. A Notice of Pending Boat or Aircraft Assessment is sent out to all other owner's of vessels within the county requesting sale, condition, and situs information.

During the processing season, the batch processing division receives all of the returned vessel property statements and notices of pending assessments. They review the statements for completeness and the correct signatures and forward the statements and notices that report changes on to the auditor-appraisers for further processing. The values are calculated automatically using the depreciation schedule; then the auditor-appraisers review the values and compare them to market value indicators. All vessels with a value in excess of $100,000 or a length greater than 30 feet are reviewed annually. The assessor uses NADA and BUC cost guides in the review stage for comparison with the depreciated values. The supervising auditor-appraiser has access to the entire program for review.

We sampled a number of assessments where the vessel owner was required to submit a vessel property statement pursuant to section 441(a), and we found that when a timely submission was not made, the assessor correctly applied a 10 percent penalty assessment in accordance with section 463.

Vessels Qualifying for the 96 Percent Exemption

Certain commercial vessels may qualify for a 96 percent exemption if they meet the requirements in section 227. For vessel owners to qualify for the exemption, they must file
BOE-576-E, Affidavit For 4 Percent Assessment Of Certain Vessels. If the taxpayer files an affidavit by February 15, a 96 percent exemption may be granted. When filed after February 15, but on or before August 1, the assessor may still grant a reduced exemption of 76.8 percent (80 percent of the 96 percent exemption). However, no exemption may be granted for those taxpayers filing an affidavit after August 1.

For the 2009-10 roll year, 25 commercial vessels in Orange County with a value of $241,518 qualified for the 96 percent exemption provided in section 227. We sampled several partially exempt vessels and found that the exemption forms were sufficiently completed and exemptions were appropriately granted when the qualifications stipulated in section 227 were met.

Findings

We reviewed several vessel assessments in detail. Our sampling included vessels whose values were in excess of $100,000, those which were subject to the assessor's application of an annual depreciation rate, and vessels which were appraised. In reviewing the sample vessels, we found them to be well documented and complete. However, we found the assessor's depreciation schedule is based upon the vessel's assessed value and not the type. The assessor has reported that they will implement the BOE's depreciation schedule for the 2011-12 roll year when they switch over to a new computer system.

RECOMMENDATION 15: Apply depreciation percentages to vessels according to type.

The assessor annually establishes depreciation percentages for vessels based on the assessed value of the vessel and not the vessel type. The depreciation percentages used are a composite of findings derived from a San Diego market study. Although this study may be founded upon market evidence, the compilation of market data related to all types of vessels is too generic to be appropriately used to value any particular vessel under review.

For purposes of California property taxation, vessels are valued at their fair market value every year as of the January 1 lien date. The fair market value can be estimated from the sale price or published vessel valuation guides. For mass appraisal purposes, a fair market value estimate can also be determined by deriving trend factors from the market by using the valuation guides. According to Assessors' Handbook Section 576, Assessment of Vessels (AH 576), trends can be developed by categorizing pleasure boats into two groups – new and used. These groups can be further subdivided into subgroups, such as houseboat, cruiser, sailboat, inboard, outboard, and personal watercraft, as noted in the valuation guides. Trends in depreciation percentages for these groups can be determined by comparing valuation guides for the current and previous year. Once trend factors are computed they can be applied within each group and subgroup.8

A fixed depreciation percentage applied to all vessels, regardless of class or size, may result in incorrect values.

---

APPENDIXES

A. County-Assessed Properties Division Survey Group

Orange County

Chief
Dean Kinnee

Survey Program Director:
Benjamin Tang Principal Property Appraiser

Survey Team Supervisor:
David Dodson Supervising Property Appraiser

Survey Team Leader:
Ronald Louie Senior Specialist Property Appraiser

Survey Team:
James McCarthy Senior Petroleum and Mining Appraisal Engineer
Paula Jean Eagleman Senior Specialist Property Appraiser
Tammy Aguiar Associate Property Appraiser
Bryan Bagood Associate Property Appraiser
Michael Brennan Associate Property Appraiser
Jennifer Prince Associate Property Appraiser
Jeffrey Arthur Associate Property Auditor-Appraiser
Michael Nicholas Tax Auditor
Samantha Stewart Tax Technician II
B. Assessment Sampling Program

The need for compliance with the laws, rules, and regulations governing the property tax system and related assessing activities is very important in today's fiscally stringent times. The importance of compliance is twofold. First, the statewide maximum tax rate is set at 1 percent of taxable value. Therefore, a reduction of local revenues occurs in direct proportion to any undervaluation of property. (It is not legally allowable to raise the tax rate to compensate for increased revenue needs.) Secondly, with a major portion of every property tax dollar statewide going to public schools, a reduction in available local property tax revenues has a direct impact on the State's General Fund, which must backfill any property tax shortfall.

The BOE, in order to meet its constitutional and statutory obligations, focuses the assessment sampling program on a determination of the full value of locally taxable property and eventually its assessment level. The purpose of the BOE's assessment sampling program is to review a representative sampling of the assessments making up the local assessment rolls, both secured and unsecured, to determine how effectively the assessor is identifying those properties subject to revaluation and how well he/she is performing the valuation function.

The BOE's County-Assessed Properties Division (CAPD) conducts the assessment sampling program on a five-year cycle for the 11 largest counties and cities and counties and on either a random or as needed basis for the other 47 counties. This sampling program is described as follows:

A representative random sampling is drawn from both the secured and unsecured local assessment rolls for the counties to be surveyed.

These assessments are stratified into 18 value strata (nine secured and nine unsecured.)

From each stratum a random sampling is drawn for field investigation, sufficient in size to reflect the assessment level within the county.

For purposes of analysis, after the sample is drawn, the items are identified and placed into one of the five categories listed below:

**Base year properties.** Those properties the county assessor has not reappraised for either an ownership change or new construction during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

---

9 The term "assessing" as used here includes the actions of local assessment appeals boards, the boards of supervisors when acting as boards of equalization, and local officials who are directed by law to provide assessment-related information.

10 The nine value strata are $1 to $99,999; $100,000 to $199,999; $200,000 to $499,999; $500,000 to $999,999; $1,000,000 to $1,999,999; $2,000,000 to $19,999,999; $20,000,000 to $99,999,999; $100,000,000 to $249,999,999; and $250,000,000 and over.
**Transferred properties.** Those properties last reappraised because of an ownership change that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

**New construction.** Those properties last reappraised to reflect new construction that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

**Non-Proposition 13 properties.** Those properties not subject to the value restrictions of article XIII A, or those properties that have a unique treatment. Such properties include mineral-producing property, open-space property, Timberland Production Zone property, and taxable government-owned property.

**Unsecured properties.** Those properties on the unsecured roll.

From the assessment universe in each of these 18 value strata (nine strata on both secured and unsecured local rolls), a simple random sampling is drawn for field investigation that is sufficient in size to reflect the assessment practices within the county. A simple nonstratified random sampling would cause the sample items to be concentrated in those areas with the largest number of properties and might not adequately represent all assessments of various types and values. Because a separate sample is drawn from each stratum, the number of sample items from each category is not in the same proportion to the number of assessments in each category. This method of sample selection causes the raw sample, that is, the "unexpanded" sample, to over-represent some assessment types and underrepresent others. "Expanding" the sample data eliminates this apparent distortion in the raw sampling; that is, the sample data in each stratum are multiplied by the ratio of the number of assessments in the particular stratum to the number of sample items selected from the stratum. Once the raw sampling data are expanded, the findings are proportional to the actual assessments on the assessment roll. Without this adjustment, the raw sampling would represent a distorted picture of the assessment practices. This expansion further converts the sampling results into a magnitude representative of the total assessed value in the county.

The field investigation objectives are somewhat different in each category, for example:

**Base year properties** -- for those properties not reappraised during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: was the value properly factored forward (for the allowed inflation adjustment) to the roll being sampled? Was there a change in ownership? Was there new construction? Or, was there a decline in value?

**Transferred properties** -- for those properties where a change in ownership was the most recent assessment activity during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that a reappraisal was needed? Do we concur with the county assessor's new value? Was the base year value trended forward (for the allowed inflation adjustment)? Was there a subsequent ownership change? Was there subsequent new construction? Was there a decline in value?
New construction -- for those properties where the most recent assessment activity was new construction added during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that the construction caused a reappraisal? Do we concur with the value enrolled? Was the base year amount trended forward properly (for the allowed inflation adjustment)? Was there subsequent new construction? Or, was there a decline in value?

Non-Prop 13 properties -- for properties not covered by the value restrictions of article XIII A, or those properties that have a unique treatment, do we concur with the amount enrolled?

Unsecured properties -- for assessments enrolled on the unsecured roll, do we concur with the amount enrolled?

The results of the field investigations are reported to the county assessor, and conferences are held to review individual sample items whenever the county assessor disagrees with the conclusions.

The results of the sample are then expanded as described above. The expanded results are summarized according to the five assessment categories and by property type and are incorporated into the published assessment practices survey report.

The primary use of the assessment sampling is to determine an assessor's eligibility for the cost reimbursement authorized by section 75.60. During the course of the sampling activity, the assessment practices survey team may also discover recurring causes for the differences in the opinion of taxable value that arise between the assessor and the CAPD. These discoveries may lead to recommendations in the survey report that would not have otherwise been made.
C. Relevant Statutes and Regulations

Government Code

15640. Survey by board of county assessment procedures.

(a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.

(b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.

(c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.

(d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.

(e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.

(f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

15641. Audit of records; appraisal data not public.

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

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.
The board shall permit an assesse of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assesse shall be disclosed.

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

15642. **Research by board employees.**

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

15643. **When surveys to be made.**

(a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.

(b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.

(c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.
(d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

15644. Recommendations by board.

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

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

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

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

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

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

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

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

75.60. Allocation for administration.

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

(b) For purposes of this section:

(1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.

(2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:

(A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.

(B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).
(3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

Title 18, California Code of Regulations

Rule 370. Random selection of counties for representative sampling.

(a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the ten largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.

(b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.

(1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.

(2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.
(3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

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

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


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

(1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or

(2) the sum of all the differences between the board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

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

(1) Uniformity of treatment for all classes of property.

(2) Discovering and assessing newly constructed property.

(3) Discovering and assessing real property that has undergone a change in ownership.

(4) Conducting mandatory audits in accordance with Revenue and Taxation Code Section 469 and Property Tax Rule 192.

(5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code Sections 421 et. seq.
(6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code Sections 107 et. seq.

(7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.

(8) Discovering and assessing property that has suffered a decline in value.

(9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.

(c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.
ASSESSOR'S RESPONSE TO BOE'S FINDINGS

Section 15645 of the Government Code provides that the assessor may file with the BOE a response to the findings and recommendations in the survey report. The Orange County Assessor's response begins on the next page.

Section 15645 also allows the BOE to include in the report comments regarding the assessor's response. Following are our comments to the assessor's response to Recommendation 7.3.

BOE's Comments

The authority cited by the assessor, Streets and Highway Code section 104.13, authorizes the California Department of Transportation to act as agent for the payment of possessory interest taxes, but does not provide authority to tax possessory interests in government-owned real property held by state and local government.

Section 3 of article XIII provides that property owned by a local government is exempt from property taxation. "Property owned" includes possessory interests held in government-owned real property. Therefore, any possessory interest in government-owned real property held by a state or local government is exempt.

It is the BOE's position that the assessor does not have the authority to assess the possessory interests held by state and local governments.
October 6, 2011

Mr. Dean Kinnee, Chief
County-Assessed Properties Division
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0064

Re: Response to the 2011 Orange County Assessment Practices Survey

Dear Mr. Kinnee:

Pursuant to Section 15645 of the California Government Code, the following report is the Assessor’s Response to the 2011 Assessment Practices Survey Report.

This survey was conducted for a period when the economy and the market was weak without a clear overall trend. A large segment of the real estate market was impacted by the value reduction when some areas were showing recovery. The dynamics and degrees of spread also varied amongst different market sectors, e.g., residential, commercial and industrial. At the same time, the Orange County Assessor Department was challenged with the county-imposed budget reductions and the resulting production resource shortages.

We wish to thank you and the survey team for the courteous and professional manner in which they conducted this survey.

Sincerely,

WEBSTER J. GUILLORY
County Assessor

Attachment: Response to the 2011 Orange County Assessment Practices Survey
Recommendation 1:

Improve the disaster relief program by: (1) consistently issuing supplemental assessments when revaluing restored property, and (2) consistently applying the inflation factor to the assessed value of damaged properties

Assessor's Response

(1) The disaster relief program is in compliance with all state laws, rules and regulations. One (1) supplemental assessment was found to have been cancelled in error.

(2) We respectfully disagree. The Assessor exercises appraisal judgment based on the timing of each disaster reassessment, market conditions and the condition of each property at the time of the assessment.

Recommendation 2:

Remove penalty language from the standard letter sent to taxpayers who have filed an incomplete PCOR

Assessor's Response

We respectfully disagree. The penalty language in the standard letter does not specify that there is a penalty for filing an incomplete PCOR. The sentence in question states "We require the following information in order to process the transfer of property into your name and to avoid any potential penalties.".

This sentence is correct. If the taxpayer completes the PCOR and returns it, they will avoid any potential penalties. The Assessor believes this statement is a strong and complete representation of the process.

Recommendation 3:

Improve the LEOP program by applying appropriate penalties required by section 482(b) if a change in ownership statement is not returned timely as required by section 480.1 or 480.2

Assessor's Response

We concur. The Assessor is processing LEOP transfers, and is working on a plan to implement LEOP penalties.
Recommendation 4:

Correct the language on section 63.1 and section 69.5 denial letters

Assessor’s Response

We concur. The Assessor has made corrections as recommended.

Recommendation 5:

Enroll all domestic and irrigation water wells as land

Assessor’s Response

We concur. The Assessor will make adjustments as recommended.

Recommendation 6:

Improve the CLCA program by: (1) correctly estimating the value of nonliving improvements, (2) enrolling the correct value for properties subject to terminating restrictions, and (3) correctly assessing homesites on CLCA land

Assessor’s Response

We concur. The Assessor will correct the seven (7) parcels noted and improve assessment procedures for CLCA properties.

Recommendation 7:

Improve the taxable possessory interest program by: (1) valuing taxable possessory interests in faculty housing at the University of California at Irvine in accordance with Rule 21, (2) using the stated term of possession as the reasonably anticipated term of possession in accordance with Rule 21 when valuing taxable possessory interests, (3) not assessing a taxable possessory interest to a public user of public lands, and (4) issuing supplemental assessments on all qualifying taxable possessory interests

Assessor’s Response

(1) We respectfully disagree. The Assessor exercised appraisal judgment based on the interpretation of the various contract provisions and recorded documents.
Assessor's Response to Recommendation 7 (continued):

(2) We respectfully disagree. All UCI faculty housing ground leases make reference to an original ground lease between the Regents of the University of California and Irvine Campus Housing Authority (ICHA). The original ground lease has a 99-year stated term, and establishes the basis for possessory interest assessments. The ground lease is not between the UC Regents and the individual faculty members. The housing program was implemented with the expectation that owners of individual properties would change during the 99-year term. More than 80 years currently remain on the original 99-year term. It is not reasonable to anticipate that a faculty member would be teaching at UCI for this extended length of time. The Assessor believes that using the remaining term of the original ground lease would dramatically overstate the value. Based on a turnover study by the Irvine Campus Housing Authority, a term of 30 years for valuation purposes was used.

(3) We respectfully disagree. The properties sampled by the BOE are owned by the California Department of Transportation (CalTrans) and used by local municipalities. The properties were acquired by CalTrans for future highway expansion, and are currently leased by local municipalities. Streets and Highway Code Section 104.13 mandates that the Assessor assess these properties as taxable possessory interests.

(4) We concur. Beginning in 2012, supplemental assessments will be generated for all possessory interests.

Recommendation 8:

*Improve restricted historical property assessments by properly applying the property tax component when valuing historical properties*

Assessor's Response

The two (2) properties noted in the survey have been reviewed. The survey was correct on the first parcel. The second property was valued correctly, with no property tax component in 2009 or any subsequent assessment year.

Recommendation 9:

*Assess all wireless communication tower sites delegated for local assessment*

Assessor's Response

The Assessor has made every effort to assess all locally assessed wireless communication tower sites. We are not aware of any sites that have not been assessed.
Recommendation 10:

*Review discounted cash flow procedures for valuing petroleum properties to better follow generally accepted appraisal standards*

Assessor’s Response

We respectfully disagree. The Assessor uses accepted appraisal standards to determine discount rates. Adjustments to standard cap rates are determined by knowledgeable oil and gas appraisers, using appraisal judgment to make adjustments for size, location and productivity of each property.

Recommendation 11:

*Use a comprehensive audit checklist as a standard component of the audit program*

Assessor’s Response

A comprehensive audit checklist is a standard component of the Orange County audit program. The audit procedure manual has a checklist for the auditors to plan and use as a guide to conduct audits.

Recommendation 12:

*Value taxable business property in accordance with section 501, when a taxpayer fails to file a business property statement*

Assessor’s Response

We concur. The Assessor has consistently incorporated market factors in procedures for estimating the value of a non-filer’s taxable business property. The new assessment system provides the ability to apply different escalation rates based on the nature, size, and/or type of the business. This is also a resource issue, as we lack the resources to physically visit each non-filer on an annual basis.
Recommendation 13:

*Use the Board-recommended factor tables as intended when valuing mobile agricultural equipment*

Assessor’s Response

We concur. In 2010, the Assessor added an additional agricultural factor table for use when valuing the 36 agricultural filers in Orange County. Assessments are reviewed to ensure the consistent and proper application of the correct agricultural factor tables.

Recommendation 14:

*Properly classify and assess personal property in apartment complexes pursuant to section 602*

Assessor’s Response

Reasonable costs are usually processed as reported. When a BPS appears to understate the cost of assessable supplies and equipment, additional steps are taken to verify the accuracy of the BPS. For smaller, unfurnished apartment complexes with 50 units or less that typically have minimal personal property to report, further review is mostly not done, due to limited resources.

Recommendation 15:

*Apply depreciation percentages to vessels according to type*

Assessor’s Response

We concur. The old assessment system’s database did not include vessel type. Implementation of a new assessment system will allow this information to be tracked, if it is available.