

Office of the Assessor
County of Santa Clara



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Lawrence E. Stone, Assessor

December 1, 2017

Honorable Diane Harkey, Chair
David Yeung, Chief, County-Assessed Properties Division

California Board of Equalization *Sent via email to Honorable Diane Harkey and David Yeung*

RE: Airline Representative Period
Follow-up Correspondence to 11/27/17 Interested Parties Meeting

Dear Chair Harkey and Mr. Yeung,

I attended the Airline Representative Period Interested Parties (IP) meeting on Monday, November 27, 2017. Several comments made by representatives of the airline industry were misleading and inaccurate, clearly intended to create confusion away from the accurate assessment of commercial aircraft. The Board of Equalization is responsible for determining the most accurate methodology in establishing a representative period to be used by all assessors in assessing the aircraft of each carrier for the forthcoming fiscal year.

Lien (valuation) Date

Airline representatives, including Airlines For America (A4A), insisted that, “the representative period should be as close as possible to the January 1 lien date to ensure that the activity will more accurately reflect the aircraft being assessed.”

A4A’s position is entirely misleading as the lien date only applies to assessors’ responsibility to value and assess commercial aircraft in use as of January 1. There is no relationship whatsoever between the lien date and flight activity required in establishing a “representative period”. Flight activity is immaterial to the valuation of a specific aircraft.

Neither Revenue and Taxation Code Section 1153, nor Property Tax Rule 202(f), make reference to the lien date. Moreover, this issue has been considered by the courts, and reaffirmed in the Assessors’ Handbook 570.

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Assessors Handbook 570 states that the purpose of the representative period is to determine flight activity for the “forthcoming fiscal year, and obtain air carrier operational data ... that can reasonably be expected to reflect the average activity of the carrier for the ensuing tax year.”

Similarly, the court opined in *County of Alameda v. State Board of Equalization* (1982) 131 Cal.App.3d 374, 380 that “because the amount of aircraft activity in the coming tax year cannot be determined on March 1 [the lien date at that time], the Board is authorized to designate a representative period from a prior year which serves as the time frame to be used by county assessors in applying the allocation formula.”

AH 570, which has not been updated since 1972, does not consider the application of modern technology to manage complex data. Fifty years ago technological limitations, combined with difficulty in assembling accurate data for thousands of commercial aircraft operating in California, was impossible. Fortunately, we are long past the era of only having paper records for tracking aircraft activity. The data required to accurately determine aircraft activity for an entire year is readily available from several independent vendors.

Accurate Representative Period for Flight Activity

In 1968, representative period was established to approximate the “average activity of the carrier for the ensuing tax year” due to the technical limitations at that time. The airlines have now claimed that seven days of flight activity in January, which historically is a very low month for airline travel, is a better predictor of the ensuing tax year than applying activity for 365 days of the year. The technical limitations no longer exists, and there is no basis for concluding that seven days of data is superior to 365 days of data.

Fuel Sales Data

Ironically, during the interested parties meeting, BOE staff’s recommendation to use fuel sales data was the only area of agreement by assessors and the airline industry, but for vastly different reasons.

While the fuel sales methodology is a welcome improvement over past practice, the analysis still relies upon fuel sales, which at best is an “indirect” indicator of flight activity. Fuel sales methodology is still based on a single month, and is influenced not only by flight activity, but also by fuel prices. Fuel prices are not the most stable commodity.

During the past two years, the California Assessors Association (CAA) and their Aircraft Advisory Subcommittee have devoted significant time and resources identifying and confirming that actual annual data is now available, and verifiable from independent, third-party experts of which there are at least two vendors. One company, FlightGlobal, is a publicly traded data corporation which manages the largest aviation database in the world, including data from 300,000 individual aircraft.

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FlightGlobal tracks the status of approximately 100,000 commercial flights each day. They are experts in managing large sets of data allowing both assessors and the Board of Equalization to make more precise and accurate assessments of aircraft activity based upon “actual” data, as opposed to a single month “estimate”. FlightGlobal gets data from the FAA. The original source of the FAA data is the airlines.

Los Angeles County and the CAA, working with FlightGlobal, have concluded that “365 data is 99.99% accurate, and the data is available for use immediately by all California counties.” The CAA has informed the BOE staff of these developments. However, the California Department of Tax and Fee Administration incorrectly stated that “a full prior year's activity could prove too burdensome for air carriers.”

Similarly, Darren Sikorski, VP of Government & Professional Services for FlightGlobal, informed John Loudon, prior to the IP hearing, that “365 day data is available, reliable and would bring accuracy and integrity to the assessment of commercial aircraft”. FlightGlobal stated “the company is confident in its data, and can support a 365 day data range.” In a document provided to the BOE on November 27, FlightGlobal concluded that:

“the data showed that the 2nd week of January proxy date is a poor representation of annualised time in state. Similarly, moving the selected week from the 2nd week of January to a week in mid-October, also doesn't correctly address the identified problems. While some weeks may be better than others, no week is truly representative. There are too many variables over the course of a year for any week to capture – variables such as, constantly changing airline schedules, aircraft substitutions, and large seasonal swings in operations.

Selecting a single or a limited number of representative weeks, will always under tax some airlines and over tax others.

To illustrate this point, FlightGlobal studied an October 2016 week of commercial flights at LAX. While that week came closer to the actual average for flight operations than the single week in January, FlightGlobal found that the data demonstrated both over and under taxation.

If a week in October had been used in 2016, six airlines would have been over taxed - some more than 7.5%. Another eight airlines would have been under taxed, in one case as much as 41%.

The October week introduces another problem by missing operations of the larger, more valuable aircraft that some airlines use during the peak summer travel season.

By using actual flight data for the entire year, California could avoid the inherent pitfalls, including unnecessary property tax disputes and expensive litigation.

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A 365 day data set ensures is a logical and fair assessment and can be adjusted, if necessary, for macroeconomic factors (recession, fuel crises, terrorism, etc.) and from prolonged disruptions due to climate or weather events.”

A more extensive presentation by FlightGlobal is attached. I would urge the Board to delay a decision concerning the representative period to January 2018, to consider this new information.

It was apparent during the meeting that the strategy of the airlines and their representatives was to continue the single week in January, and continue to study the 365 solution for another year. This is entirely unnecessary. The airlines employed this same strategy last year, and dozens of meetings between the airlines and assessors, arranged by Assemblymember Nazarian, failed to accomplish anything meaningful. The time to proceed is now.

I am also compelled to inform you of a very disturbing development. At the beginning of the interested parties meeting, David Yeung indicated that the BOE staff was directed by the Board to consider three options: (1) Single week in January; (2) Fuel sales; (3) 365.

An official of FlightGlobal traveled to Sacramento and was prepared with a PowerPoint presentation at the IP meeting, reviewing the process and benefits of the 365 option. The night before the meeting, attorneys for A4A contacted the FlightGlobal official in his hotel room, adjacent to the BOE office, and in a very contentious, “unfriendly” manner, directed him not to attend the interested parties meeting. This action demonstrates conclusively what the airlines will do to prevent a full discussion of their options available to the BOE. In a word, it is “outrageous” conduct!

Earlier this year in BOE Issue Paper 16-12, Board staff highlighted important questions as to the viability of implementing the 365 methodology, such as:

- How readily can 365 days of data be obtained? Who could/would provide the data?
- How would the data be verified? Could airlines dispute the data?
- Is it administratively feasible for county assessors' staff to process 365 days of data?
- Is it administratively feasible for airline carriers to provide 365 days of information to county assessors?
- How does the data for 12 months compare to a one- or two-week representative period? ”

If FlightGlobal been allowed to make their presentation at the IP meeting, each of these questions would have been answered thoroughly.

Both intuitively and statistically, January is the slowest period of flight activity for commercial airlines, resulting in the conveyance of a major property tax benefit to the airlines for decades. Consequently, January has never been a fair or accurate reflection of average flight activity for an entire year. I urge you to adopt the most accurate option based on actual flight activity in determining the value of commercial aircraft operated by certificated air carriers.

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Sincerely,



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