

# California State Board of Equalization

# **2018-19** ANNUAL REPORT

#### LETTER FROM THE EXECUTIVE DIRECTOR

The Honorable Gavin Newsom Governor of California April 2020

Dear Governor Newsom:

On behalf of the Board Members, the Executive Team, and our dedicated employees, I am pleased to present the *Annual Report of the California State Board of Equalization* (BOE) for the fiscal year (FY) that ended June 30, 2019.



The BOE is committed to fulfilling its constitutional and statutory duties and is focused on our mission, which is to serve the public through fair, effective, and efficient tax administration, which supports state and local governments.

The BOE oversees the assessment practices for the 58 county assessors, who are charged with valuing over 13 million assessments each year. In FY 2018-19, the net statewide assessed value was \$6.4 trillion, resulting in \$70.8 billion of property tax levies. Those property tax levies contributed \$38.1 billion to schools and \$32.7 billion to local government.

In 2019, the BOE set the values of state-assessed properties, primarily privately-owned public utilities and railroads, at \$110.5 billion for the 2019-20 roll. This was a \$673 million increase from 2018-19 values. State-assessed properties produced \$1.67 billion in local property tax revenues for the state's 58 counties in 2019-20.

The BOE is also responsible for administering the Alcoholic Beverage Tax Program, which produced \$378.6 million, and the Tax on Insurers program, which added \$2.4 billion to the state.

We are proud to serve this great State of California and will continue to do our part to provide essential revenues for the state and local governments.

Sincerely,

Brenda Fleming

Brenda Fleming Executive Director

# **BOARD MEMBERS**



Created in 1879 by a constitutional amendment, the California State Board of Equalization (BOE) was initially responsible for ensuring that county property tax assessment practices were equal and uniform throughout California.

The BOE administers three tax programs that produce revenue essential to our state. The Board hears appeals from public utility assessments and serves a significant role in the assessment and administration of property taxes by issuing rules and regulations, establishing the tax values of railroads and specified privately-held public utilities, and overseeing the assessment practices of the state's 58 county assessors.

Public Board meetings offer taxpayers and other interested parties the opportunity to participate in the formulation of rules and regulations adopted by the Board and to interact with the Members as they carry out their official duties. The Board meets monthly.

The Board consists of five Members who serve concurrent four-year terms. One Member is elected from each of California's four equalization districts. The State Controller, elected at large, serves as the Board's fifth Member. Each of the four elected Board Members represent approximately 9.5 million constituents in their respective districts.

This annual report represents the BOE's services and accomplishments for fiscal year 2018-19. The elected Board is comprised of Board Members Ted Gaines, First District; Malia Cohen, Second District; Antonio Vazquez, Third District; Mike Schaefer, Fourth District; and Betty Yee, State Controller. This Board is committed to fulfilling its constitutional duties and contributing to California's success.

# **MISSION AND VISION**

#### MISSION

Our mission is to serve Californians through fair, effective, and efficient tax administration in support of state and local governments.

#### VISION

To rebuild, revitalize, and modernize the BOE, to enrich its employees, and strengthen its organizational capabilities to deliver gold-standard services.





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# **PROFILE OF THE BOE**

#### **BOE PROGRAMS**

The BOE oversees the assessment practices of the state's 58 county assessors, who are charged with establishing values for over 13 million assessments each year. In addition, the BOE assesses the property of regulated railroads and specific public utilities, and assesses and collects the private railroad car tax; as well as, the assessment of taxes on insurers, and the assessment and collection of excise taxes on the manufacture, importation, and sale of alcoholic beverages.

#### **GENERAL PROPERTY TAXES**

Proposition 13, passed by California voters in 1978, imposed a property tax rate of one percent of the property's full cash value, with limited exceptions. In addition, it allows reappraisal of real property at current fair market value only when there is a change in ownership or upon completion of new construction.

When a reappraisal occurs because of a change in ownership or the completion of new construction, the assessor sets a new "base year value" for the property that underwent the change in ownership or that was newly constructed. Thereafter, Proposition 13 generally limits annual increases in the base year value to a maximum of two percent, depending on the most recent year's percentage change in the California Consumer Price Index.

However, where a property's current market value has declined below its base year value adjusted for inflation, the current market value becomes the property's temporary assessed value until the adjusted base year value exceeds its current market value. The temporary assessed value is commonly referred to as a "Proposition 8" value, so named for the November 1978 constitutional amendment that allowed for such temporary reductions in assessed value.

When a property has received a Proposition 8 value, increases in assessed value year over year are no longer limited to two percent, but instead may be made in whatever amount is needed to either: (a) establish a new, higher Proposition 8 value; or (b) make up the difference between the prior year's Proposition 8 value and the adjusted base year value. In all cases, the assessed value must be the lower of current market value or the adjusted base year value.

### PROFILE

#### **STATE-ASSESSED PROPERTIES**

In accordance with Article XIII, section 19 of the California Constitution, the BOE assesses certain public utilities and other specified properties and allocates the assessed values among the counties where the properties are physically located.

State-assessed properties include:

- · Pipelines, flumes, canals, ditches, and aqueducts lying within two or more counties.
- Property (except franchises) owned or used by regulated railway, telegraph, or telephone companies; railroad car companies operating on railways in the state; and companies transmitting or selling gas or electricity.

#### **PRIVATE RAILROAD CAR TAX**

Private railcar owners pay the Private Railroad Car Tax on railcars operated in California. The Private Railroad Car Tax is an in-lieu property tax on railroad cars owned by non-railroad companies and operated upon California railroads. Railroad company-owned cars are included in the unitary value of railroads adopted by the Board each May. The tax paid is based on values established by the Board and the number of days the cars were physically in the state. This is the only property tax administered and collected by the state.

#### **ALCOHOLIC BEVERAGE TAX**

The Alcoholic Beverage Tax is a per-gallon excise tax collected on the sale, distribution, or importation of alcoholic beverages in California. Revenues from the tax are deposited into the Alcohol Beverage Control Fund and are withdrawn for use by the state's General Fund or used to pay refunds under this program.

As part of an interagency agreement, the California Department of Tax and Fee Administration (CDTFA) collects the tax and administers the program on behalf of the BOE. The BOE hears all appeals for claims for refund and petitions for redetermination denials.



### PROFILE

#### **TAX ON INSURERS**

The Tax on Insurers program is jointly administered by the BOE, the California Department of Insurance (CDI), and the State Controller's Office (SCO).

Insurance companies that have received authority from the CDI to transact insurance business in California are called "admitted insurers" and may be subject to as many as three insurance taxes in California.

All insurance companies are subject to a tax on gross premiums. In addition, one of the schedules in the gross premiums tax return is used for the computation of retaliatory tax, which is the second tax that an insurance company may owe. A retaliatory tax is owed when an out-of-state insurance company's domicile state (home state) imposes higher taxes on a California-domiciled insurer for the same business. The third insurance tax on insurance companies is the ocean marine tax. Surplus Line Brokers, who are licensed brokers that sell policies for non-admitted (non-licensed) insurance companies, also pay a tax.

As part of an interagency agreement with the BOE, CDTFA issues deficiency assessments, refunds, and evaluates appeals on behalf of the BOE. The BOE hears all appeals for claims for refund and petitions for redetermination denials.

#### GOVERNANCE

The Board consists of five Members who serve concurrent four-year terms. One Member is elected from each of California's four equalization districts. The State Controller, elected at large, serves as the Board's fifth Member. Each of the four elected Board Members took office in January 2019, and represents approximately 9.5 million constituents in their respective districts.

The BOE's Executive Director, appointed by the Board Members, is responsible for the employees and carrying out the BOE's mission, goals, and directives.

### PROFILE

#### RESPONSIBILITIES

The primary responsibilities of the BOE are to:

- Administer agency programs.
- Act as an appellate body for the review of property tax determinations.
- Adopt rules and regulations clarifying the laws it administers.
- Determine the assessed value of railroads and specified privately-held public utilities, including gas, electric, and telephone companies.
- Oversee the property tax assessment practices of county assessors.
- Assess and collect the Private Railroad Car Tax.
- Hear all appeals for claims for refund and petitions for redetermination for the Alcoholic Beverage Tax and the Tax on Insurers.

In carrying out these responsibilities, the BOE:

- Prescribes Property Tax Rules and issues advice to guide property owners, county assessors, and county assessment appeals boards.
- Considers appeals from taxpayers on state-assessed property values.
- Considers appeals from local governments of assessments made by county assessors on lands, water rights, and certain improvements on properties owned by the local governments, but located outside their boundaries.
- Develops and publishes capitalization rates to be used in valuing state-assessed utilities.
- Classifies unitary and nonunitary properties of public utilities and determines the property values of each assessee for local property taxation.

#### **MEETINGS**

Monthly public Board meetings offer taxpayers and other interested parties the opportunity to participate in the formulation of rules and regulations adopted by the Board and to interact with the Members as they carry out their official duties.

Each year, the Board also holds a Taxpayers' Bill of Rights Hearing that allows taxpayers to make comments on matters identified in the Taxpayers' Rights Advocate's Annual Report or BOE-administered laws and programs.

# STATE-AND COUNTY-ASSESSED VALUES

The BOE oversees the assessment practices of the state's 58 county assessors, who are charged with establishing values for over 13 million assessments each year. Assessed value net of all exemptions for 2019-20 was \$6.6 trillion, which includes \$6.4 trillion in county-assessed properties and \$110.5 billion in state-assessed properties.

#### TEN-YEAR SUMMARY NET ASSESSED VALUE OF STATE-AND COUNTY-ASSESSED PROPERTY (IN TRILLIONS)



# **EXEMPTIONS**

Several exemptions are available to qualifying nonprofits that own property, including various charitable organizations and private and nonprofit colleges. The homeowners' exemption typically provides a \$70 reduction in property taxes for owner-occupied homes.

QUALIFYING EXEMPTIONS 2019-20			
EXEMPTION TYPE	EXEMPTION VALUE		
CHARITABLE NONPROFIT	\$123,449,341,346		
HOSPITALS	\$40,727,513,879		
HOMEOWNERS' EXEMPTION*	\$34,749,244,971		
NONPROFIT COLLEGES	\$32,270,499,882		
OTHER EXEMPTIONS	\$23,979,897,164		
RELIGIOUS	\$17,609,761,883		
DISABLED VETERANS	\$7,018,612,074		
PRIVATE SCHOOLS	\$3,842,505,683		
CHURCHES	\$2,900,208,194		
LOW VALUED PROPERTY	\$102,064,114		
TOTAL	\$286,649,649,190		

\* The Homeowners' Exemption value is reimbursed by the state.

### REVENUE

#### SUPPORTING OUR COMMUNITIES

\$75 Billion in Fiscal Contributions to State and Local Government





### REVENUE

#### 2018-19 GENERAL COUNTY PROPERTY TAX REVENUE

	FY 2018-19	FY 2017-18	Change from 2017-18
School Purposes	\$38,072,957,000	\$35,848,367,000	6.2%
Counties	\$10,090,787,000	\$9,504,095,000	6.2%
Cities	\$8,871,902,000	\$8,224,310,000	7.9%
Other	\$13,746,945,000	\$12,913,729,000	6.5%
Total	\$70,782,591,000	\$66,490,501,000	6.5%

#### WHERE YOUR COUNTY PROPERTY TAX DOLLAR GOES

All Californians benefit from property tax revenues. Property tax is allocated among local governments, with schools getting more than half the revenues.



### REVENUE

#### **REVENUE SUMMARY**

	Prior Year	Current Year	% Change	General Fund
County-Assessed Property Tax	\$66,500,000,000	\$70,800,000,000	6.5%	No
Tax on Insurers	\$2,300,000,000	\$2,400,000,000	4.3%	Yes
State-Assessed Property Tax	\$1,570,000,000	\$1,670,000,000	6.4%	No
Alcoholic Beverage Tax	\$349,600,000	\$378,600,000	8.3%	Yes
Private Railroad Car Tax	\$9,900,000	\$10,500,000	6.1%	Yes
Total	\$70,729,500,000	\$75,259,100,000	6.4%	



# **TAXPAYER ASSISTANCE**

#### TAXPAYERS' RIGHTS ADVOCATE ASSISTANCE

The Taxpayers' Rights Advocate (TRA) Office conducted work on approximately 230 new cases in FY 2018-19, all relating to property taxes.

The TRA Office receives contacts from taxpayers and others who are either seeking assistance with a problem or disagreement they have in the assessment and collection of property taxes, or a concern with a tax program administered by our agency. Generally, the TRA Office assists taxpayers who have been unable to resolve a matter through normal channels, and seeks confirmation that they were treated fairly under the law. Some callers have questions or concerns that need to be addressed by another state agency such as the CDTFA, Franchise Tax Board (FTB), or county agency. The TRA Office staff respond by directing the caller to the appropriate state agency or local county agency, and providing website resources.

Although primary contact is with individual taxpayers, cases also originate from contact with tax agents, attorneys, and government officials such as assessors, tax collectors, auditor-controllers, Board Members, and Legislators.

Most property tax cases are resolved in conjunction with local county assessors, tax collectors, and assessment appeals board clerks. Multiple offices are often involved in the resolution of taxpayers' cases.

Please visit www.boe.ca.gov for more information on the TRA Office and to view the TRA Annual Report.

# TAXPAYER ASSISTANCE

#### **APPEALS PROCESS**

The BOE plays a significant role as the appellate body for the review of property tax determinations. Our Board Members hear appeals from taxpayers regarding state-assessed property values, as well as the Alcoholic Beverage Tax and the Tax on Insurers.

Although most cases are resolved at the department level, the Board Members may hear appeals from taxpayers who disagree with decisions regarding the taxes they owe.

In FY 2018-19, 21 petitions were filed by the state-assessed public utilities, and 11 of those were successfully resolved without needing to be adjudicated by the Board.



The following is a list of 2019 legislation that impacted programs administered by the BOE. All bills became effective January 1, 2020, unless otherwise specified.

#### **PROPERTY TAX**

#### AB 46 (Carillo), Chapter 9

Among others, amends section 253 of the Revenue and Taxation Code.

Veterans' Exemption. Replaces mental illness terms with more culturally sensitive terms and replaces gender references with gender neutral references.

#### AB 587 (Friedman), Chapter 657

Amends section 65852.26 of the Government Code.

Sale of Accessory Dwelling Unit. Allows an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following are met:

- The property was built or developed by a qualified nonprofit corporation receiving the welfare exemption;
- A recorded contract exists that imposes an enforceable restriction upon the sale that ensures the property will be preserved for affordable housing for 45 years for owner-occupied housing;
- · The property is held pursuant to a recorded tenancy in common agreement; and
- A grant deed is recorded, and a Preliminary Change of Ownership Report filed with the grant deed.

#### AB 608 (Petrie-Norris), Chapter 92, effective July 12, 2019

Amends section 155.20 of the Revenue and Taxation Code.

Low Value Exemption. For a five-year period beginning with the January 1, 2020, lien date, the \$50,000 limit that a county board of supervisors may exempt from property tax under a "low value" ordinance applies to any possessory interest. In addition, once a low value ordinance is enacted, this bill allows the assessor a choice on how to administer the low value exemption, without specific authorization from the county board of supervisors.

#### AB 872 (Aguiar-Curry), Chapter 685, effective October 9, 2019

Amends section 62 of the Revenue and Taxation Code.

Change in Ownership Exclusion for Transfer of Corporation Stock. Provides a change in ownership exclusion for a transfer of stock from a parent to a child in a qualified corporation that owns qualified real property, provided that the transfer is due to the death of the parent.

#### SB 196 (Beall), Chapter 669

Amends sections 75.11, 402.1, and 532 of, and adds and repeals section 214.18 of, the Revenue and Taxation Code.

Community Land Trust – Land Use Restriction. Creates a rebuttable presumption, retroactive to September 27, 2016, that the sales price of a dwelling or unit includes the leased land on which the dwelling or unit is located.

Community Land Trust – Welfare Exemption. Until January 1, 2025, extends the welfare exemption to property owned by a community land trust intended to be developed into homes to be sold to low- or moderate-income households with a 99-year land lease or rental housing available to low-income households. Recaptures the property taxes if the community land trust does not commence housing construction on the property within five years.

#### SB 527 (Caballero), Chapter 273

Amends sections 51201 and 51231 of the Government Code.

Williamson Act Compatible Use. Provides that an agricultural commodity includes cultivated industrial hemp. Allows a local agency's rule on the administration of agricultural preserves to provide that commercial cultivation of cannabis may constitute an agricultural or compatible use.

#### SB 780 (Governance and Finance Committee), Chapter 329

Among others, amends section 72 of the Revenue and Taxation Code.

Building Permits. Expands existing requirement to send building permits to the county assessor to any entity authorized to issue a building permit.

#### SB 791 (Governance and Finance Committee), Chapter 333, effective September 20, 2019

Amends section 441 of, amends and adds section 1152 of, adds sections 1153.5 and 1157 to, and repeals section 1153 of, the Revenue and Taxation Code.

Valuation of Certificated Aircraft. Changes the method to calculate California's share of total aircraft value owned by commercial air carriers for property tax purposes and re-establishes streamlined administrative procedures for counties and air carriers.

#### ALCOHOLIC BEVERAGE TAX

#### AB 205 (Daly), Chapter 60: Definition of Beer.

Revises definition to provide that beer may be produced using the following as adjuncts in fermentation: honey, fruit, fruit juice, fruit concentrate, herbs, spices, or other food materials.

#### AB 436 (Aguiar-Curry), Chapter 175: Tied-House Restrictions – Advertising.

Authorizes the purchase of advertising space and time in connection with an on-sale retail licensed premises at a specified historical venue in the City of Napa.

#### AB 840 (Dahle), Chapter 840: Imports.

Authorizes Dept. of ABC to create and issue a non-transferable special on-sale general license to a person who owns or operates a restaurant/casino/conference center that is partially located in both Placer County and Washoe County, NV. Provides that the sale, furnishing, or delivery of alcoholic beverages by the licensee within the facility are deemed to be a sale in the State of Nevada. Additionally, provides that persons may import alcoholic beverages into CA only within the facility for personal use and not for resale.

#### AB 1133 (Low), Chapter 623: Beer - Premiums, Gifts, and Free Goods.

Until 1/1/2023, authorizes a beer manufacturer to annually give up to 5 cases of advertising glassware to an on-sale licensee per location. Allows an on-sale licensee to accept up to 10 cases of advertising glassware per location. Prohibits the licensee from selling or giving away the glassware or returning it for cash, credit, or replacement. Requires manufacturer to file records relating to glassware with Dept. of ABC and requires both manufacturer and licensee to keep and maintain records for a 3-year period of all glassware given or received.

#### AB 1265 (R. Rivas), Chapter 18: Donation Prohibition.

Expands the prohibition exemption to allow specified distilled spirits wholesalers to give or sell beer, wine, or distilled spirits to certain nonprofit organizations.

#### AB 1370 (Chiu), Chapter 191: Alcoholic Beverage Licenses.

Authorizes a special on-sale general license to a nonprofit arts foundation for the sales, service, and consumption of beer, wine, and distilled spirits at a specific historic location in San Francisco.

# AB 1825 (Government Organization Committee), Chapter 696: On-Sale General Licenses - Counties.

Revises authorization to allow advertising to be placed in certain areas within a specific retail, entertainment, commercial, and mixed-use development that includes a stadium and performance venue. Authorizes specified licensees that hold more than one specified license for a single premise to have authorized alcoholic beverages at the same time anywhere within the premises for production and storage, if the license holder maintains records of production and storage that identify the specific location of each product on the premises. Adds double-jointed language for SB 717 (authorizes a craft distiller to purchase advertising from an on-sale retail licensee in specified locations).

#### SB 21 (Dodd), Chapter 362: Brewpub - Restaurant Licensee.

Lowers the required minimum brewing production of a brewpub-restaurant licensee to not less than 100 barrels of beer annually on the premises (previously not less than 200 barrels). Specifies that a brewpub-restaurant license does not authorize the sale, furnishing, or exchange any alcoholic beverages with any licensed beer manufacturer that is under the common ownership or control of the brewpub-restaurant licensee, regardless of any other licenses held by the manufacturer.

#### SB 82 (Budget and Fiscal Review Committee), Chapter 29: Budget Trailer Bill - Fees.

Increases Dept. of ABC surcharge from 3% percent of annual license fee to nearest \$5. Allows ABC to annually adjust fees, not to exceed the percentage change in the August CCPI, rounded to the nearest whole \$5, beginning with the 2021 calendar year; requires the adjusted fee schedule be posted on its website. Removes fee amounts from various statutes and consolidates them in one location.

# SB 112 (Budget and Fiscal Review Committee), Chapter 364: Alcoholic Beverage License Fee Schedule.

Corrects a typographical error in the fee schedule for an alcoholic beverage license.

# SB 788 (Government Organization Committee), Chapter 257: Alcoholic Beverage Appeals – Decision.

Revises definition of "decision" when used to mean any final determination of the department imposing a penalty assessment or affecting a license which may be appealed to the BOE and would not include any emergency decision for temporary, interim relief issued.

Tied-House Restrictions. Requires any pictures, illustrations, or depictions in the ad are also relatively inconspicuous in relation to the ad as a whole.

#### **TAX ON INSURERS**

#### AB 101 (Budget Committee), Chapter 159: Low-Income Housing Tax Credit.

Deletes the 1/1/2020 date, thereby requiring the allocation of credits among partners in accordance with the partnership agreement and authorizing the sale of a credit indefinitely. Beginning in 2020, provides for an additional \$500 million that may be allocated to specified low-income housing projects; for calendar years beginning in 2021, provides that this amount is only available for allocation pursuant to an annual Budget Act authorization. Modifies the definition of "applicable percentage" relating to qualified low-income buildings.



# **COURT CASES**

# CALIFORNIA APPELLATE COURT DECISIONS IN FISCAL YEAR 2018-19

#### SSL Landlord, LLC v. County of San Mateo (2019) 35 Cal.App.5th 262 [4.23.19]

Taxpayer failed to make showing that it should recover attorney's fees under both sections 1611.6 and 5152 of the Revenue and Taxation Code. Section 1611.6 requires a showing that the county board's findings were so deficient as to require remand to secure compliance with the required elements of finding of facts. Section 5152 requires, among other things, the assessor to have subjectively believed a specific provision of the state constitution, the property tax statutes, or a Board of Equalization rule is unconstitutional or invalid, and assessed property contrary thereto, without first bringing a declaratory relief action.

#### DFS Group, L.P. v. County of San Mateo (2019) 31 Cal.App.5th 1059 [1.31.19]

The court held that taxpayer's exclusive concession right was an intangible asset that should be deducted from the income stream in assessor's income approach to value.

#### Harmony Gold U.S.A., Inc. v. County of Los Angeles (2019) 31 Cal.App.5th 820 [1.3.19]

Section 51.5 of the Revenue and Taxation Code allows an assessor an unlimited amount of time to correct nonjudgmental base year value errors. However, section 80 of the Revenue and Taxation Code, limits refund relief of such a correction to prospective relief.

### **COURT CASES**

#### Durante v. Santa Clara (2019) 2 Cal.App.5th 839 [11.30.18]

A transfer of a tenancy-in-common interest for life was the transfer of a life estate and caused a change in ownership of the real property since the transfer transferred the present interest in and beneficial use of the real property, as well as an interest substantially equal to the value of the fee interest.



# **STATISTICAL INDEX**

The BOE Annual Report and statistical data are available online at www.boe.ca.gov.

#### **PROPERTY TAX**

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# **STATISTICAL INDEX**

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#### **TAX ON INSURERS**

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