



Legislative Bill Analysis

[Senate Bill 862](#) (Umberg)
Date: April 21, 2022 (Amended)
Program: Property Taxes
Revenue and Taxation Code Section 242
Effective: Immediately

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Summary: Expands the space flight property tax exemption to include qualified property used for space flight activities commencing with the January 1, 2022, lien date and extends the property tax exemption indefinitely beyond the current January 1, 2024, lien date and the sunset date of the exemption on July 1, 2025.

Summary of Amendments The **April 21, 2022**, amendments made technical and clarifying changes by replacing the term “infrastructure” with “equipment” in several provisions and limiting the types of equipment eligible for the exemption and adds a legislative coauthor.

Fiscal Impact Summary: Local property tax revenue loss of approximately \$20 million statewide.

Existing Law: Under the California Constitution, all property is taxable, unless otherwise provided for by the state Constitution or the laws of the United States.¹ The Legislature may exempt from property taxation in whole or in part, certain property.

In 2014, Revenue and Taxation Code (RTC) section 242 was added which allowed an exemption from property tax for property used in space flight if certain criteria are met.²

[RTC section 242](#) exempts from property tax qualified property for use in space flight for lien dates 2014 to 2024, inclusive.³ “Space flight” is defined as any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle, satellite, space facility, or space station of any kind.⁴

The exemption is limited to taxpayers that have a primary business purpose in space flight activities.⁵ The exemption does not apply to any material that is not intended to be launched into space, but does apply regardless of whether the property will ultimately be returned to California.

“Qualified property” includes⁶

- Tangible personal property that has space flight capacity. This includes, but not limited to, an orbital space facility, space propulsion system, space vehicle, launch vehicle, satellite, or space station of any kind, and any component thereof, regardless whether that property is ultimately returned to California.

¹ California Constitution, [article XIII, section 1](#).

² AB 777 (Muratsuchi), ch. 13, Stats. 2014.

³ These lien dates correspond to the 2014-15 to 2024-25 fiscal years.

⁴ RTC section 242, subdivision (b)(2).

⁵ RTC section 242, subdivision (f).

⁶ RTC section 242, subdivisions (1)(A) and (1)(B).

- Tangible personal property, including raw materials, work in process or finished goods, that has, or upon manufacture, assembly, or installation, has space flight capacity.
- Fuel produced, sold, and exclusively used for space flight and not adaptable for use in ordinary vehicles.

The County Assessor cannot deny the exemption because:

- The space flight launch fails, is postponed, or is cancelled.⁷
- A launch vehicle, or any component thereof, is destroyed.⁸

However, the exemption shall not apply to any material that is not intended to be launched into space.

The exemption applies to the January 1, 2014 lien date for the 2014-15 fiscal year and is inoperative after the January 1, 2024, lien date and is repealed on July 1, 2025.⁹

In 2014, the BOE released a Letter to Assessors No. 2014-31 regarding the new space flight exemption added by AB 777.¹⁰

Proposed Law: This bill expands the space flight exemption to include qualified property used for “space flight activities” rather than for “use in space flight,” and indefinitely extends the exemption beyond the January 1, 2024, lien date and removes the July 1, 2025, exemption repeal date. Additionally, the bill removes the provision that the exemption shall not apply to any material that is not intended to be launched into space.

The **April 21, 2022**, amendments narrowed the types of property that would be eligible for the exemption, but the proposed bill expands the exemption to the following tangible personal properties:

1. Ground support equipment for space flight launch preparation and operations including :
 - Equipment necessary to distribute commodities to the launch site, space propulsion system, space vehicle, or launch vehicle;
 - Housing data and communication support systems;
 - Testing space propulsion systems, space vehicles, or launch vehicles, or any component thereof;
2. Testing Space flight engines and components at a test site, including:
 - Test stands for testing liquid propulsion rocket engines, rocket structural elements, and integrated rocket assemblies, including all propellant and commodity delivery systems;

⁷ RTC section 242, subdivision (c).

⁸ Ibid.

⁹ RTC section 242, subdivisions (d) and (g).

¹⁰ [Board of Equalization Letter to Assessors No. 2014-31](#).

- Instrumentation, command, and control systems for operating test stands;
- Environmental protection, safety, and occupational health equipment.

In General: Business Personal Property. Personal property used in a trade or business is generally taxable. Annually, the law requires property owners to report their business personal property to the County Assessors on a business property statement, which is subject to audit. Proposition 13's value limitations do not apply to personal property, which is valued each lien date at its current fair market value.

The business property statement includes information regarding the supplies, business equipment, and leasehold improvements for each business location in the state. The owner provides information on the statement that is then used to assess and tax property in accordance with the law. The owner reports the acquisition costs of the supplies, business equipment and leasehold improvements that were owned on the lien date at the business location. Business inventory and licensed vehicles, with certain exceptions, are not taxable personal property and are not reported on the statement.

Business Inventory. Business inventory includes all items of personal property that become part of, or are themselves, a product that is held for sale or lease in the ordinary course of business. For an item of property to qualify for the business inventory exemption, the key phrases ordinary course of business and goods intended for sale or lease must apply.

Background: As discussed in the Existing Law section of this analysis, the current space flight property tax exemption was added into statute in 2014 by AB 777 (Muratsuchi).

SpaceX, the sponsors of AB 777, argued that space flight up until that point was an entirely government run industry and California did not have business tax incentives to support the burgeoning private company space flight industry taking place in California.

Proponents argued California's leadership in the aerospace industry eroded over time as multiple manufacturers moved their operations elsewhere.

In 2014, SpaceX claimed they created 2,700 high-paying jobs and spent \$150 million contracting with over 1,000 California suppliers.¹¹

Authorizing a property tax exemption for space flight would, in theory, ensure California's space flight technology companies would stay in business and remain in California.

[Assembly Bill 3197](#) (Burke) was amended March 22, 2018 to indefinitely extend the space flight property tax exemption beyond the January 1, 2024 lien date and the July 1, 2025 repeal date. Proponents argued the indefinite extension of the exemption was critical for the space flight industry to remain in California.

The bill passed the Assembly Revenue and Taxation Committee before being held on the Assembly Appropriations Committee suspense file.

In 2021, [Assembly Bill 1288](#) (Quirk-Silva) was introduced on February 19, 2021, (identical to SB 862) and amended on April 5, 2021, to specify the specific types of property that would qualify under the expanded

¹¹ Assembly Revenue and Taxation Committee analysis of AB 777 (2014), April 26, 2013.

space flight exemption. The bill did not receive a committee hearing and was gutted and amended on April 26, 2021, to pertain to low-income housing tax credits.

Commentary:

1. **Indefinite Extension of Sunset Date.** The bill would indefinitely extend the space flight property tax exemption beyond the current January 1, 2024 lien date and repeal date of July 1, 2025. While such an extension would provide long term certainty for tax planning and investment purposes by companies operating in the space flight industry in California, such a carte blanche approach may not be consistent with the Assembly Revenue and Taxation Committee’s policy that all tax expenditures, as defined by the committee, must contain a five-year sunset date unless it provides relief to California veterans.¹² The author may wish to consider including a sunset date that complies with this committee policy.
2. **Prior Legislation. SB 862** is a reintroduction of **AB 1288** (Quirk-Silva) as introduced on February 19, 2021. **AB 1288** was amended on April 5, 2021, to make various changes relating to property that would qualify for the property tax exemption and added in RTC section 41 language relating to goals, purposes, and objectives of the exemption. The bill did not receive a hearing and was gutted and amended April 26, 2021, to deal with low-income housing tax credits.
3. **Amendments Limited Types of Property?** The **April 21, 2022**, amendments appear to attempt to limit the types of property that would be eligible for exemption by removing the phrase “but not limited to.” However, the effect is unclear since the word “including” may still allow exemption to items not specifically identified on the enumerated list. The author may wish to explicitly limit they types of property that would qualify for the space flight exemption to those enumerated if that is the author’s intent. Additionally, the **April 21, 2022**, amendments replaced the term “infrastructure” with the term “equipment” for purposes of the exemption. The previous BOE analysis of **SB 862** raised concerns that the use of the word “infrastructure” may be problematic, since this may go against the requirement that the property be “tangible personal property.” Because the Legislature cannot exempt real property without Constitutional authorization, the use of infrastructure could have caused confusion or controversy.¹³
4. **How much use in space flight activities qualifies?** **SB 862** proposes to broadly expand the space flight property tax exemption to include property that is used for space flight activities rather than for property for use in space flight and changes the criteria to limit how County Assessors may deny the property tax exemption. This change causes administrative ambiguity, complexity, and potential nonuniformity. Since it is not specified how much use in a particular activity qualifies that property for exemption, County Assessors must make that determination. For example, would a truck used to deliver commodities to the launch site a single time be eligible for exemption? The author may wish to consider requiring equipment to be used “exclusively” for space flight activities.
5. **Related Property Tax Rule 133 and State Board of Equalization (BOE) Legal Opinions.** [Property Tax Rule 133](#), *Business Inventory Exemption*, was amended effective October 1, 2014 and provides that exempt business inventories include space flight property that is not operationally reusable

¹² [“Chair’s Policy on Qualifying Tax Expenditure Measures,”](#) Assembly Revenue and Taxation Committee.

¹³ Board of Equalization, [Publication 29](#), *California Property Tax An Overview*.

This staff analysis is provided to address various administrative, cost, revenue, and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position.

and over which ultimate control is relinquished. On December 24, 2013, the BOE's Legal Department issued an advisory, non-binding legal opinion (Property Tax Annotation [205.0280](#)) that the business inventory exemption applies to space flight property fabricated and used to transport satellites and cargo to locations in outer space if the owner relinquishes ultimate control at launch to a federal launch safety authority.

Costs: Staff estimates 15 personnel hours to produce a Letter To Assessors costing the agency approximately \$1,008.78. Staff believes changes proposed by this bill would not necessitate any additional changes to Rule 133, *Business Inventory Exemption*.

Revenue Impact: According to County Assessors, the expansion of the space flight exemption would result in an estimated annual local property tax revenue loss of approximately \$20 million statewide.

At the time of preparing this analysis, staff were able to estimate the revenue impact related to the expansion of the space flight exemption, but some other factors may contribute to an increase or decrease in local property tax loss.

County Assessors have indicated that taxpayers are not required to report or identify assets exempted by law as they are only required to provide the County Assessor the information upon request. This request would be done through an audit process by the County Assessor. Additionally, several other factors may increase or decrease the revenue loss including: (1) growth of the space flight industry in California; (2) type of property that is eligible for the expanded exemption; (3) value of the property that is eligible for the exemption.

The above explanation provided by the County Assessors highlights the difficulty in estimating the current exemption impact on local property tax revenues.