



Legislative Bill Analysis

[Senate Bill 862](#) (Umberg)
Date: April 27, 2022 (Amended)
Program: Property Taxes
Revenue and Taxation Code Section 242
Effective: Immediately

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Analysis Date: May 3, 2022

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 to, and including, the January 1, 2032, lien date and repeals the section on July 1, 2033.

Summary of Amendments: The **April 27, 2022**, amendments added a sunset date of January 1, 2032, for the exemption and repeals the section on July 1, 2033. The amendments additionally added State Board of Equalization (BOE) and County Assessors reporting requirements under RTC section 41.

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.
- Tangible personal property, including raw materials, work in process or finished goods, that has, or upon manufacture, assembly, or installation, has space flight capacity.

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).

- 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: Expands Exemption. This bill expands the space flight exemption to include qualified property used for “space flight activities” rather than for “use in space flight,” and extends the exemption to include the January 1, 2032, lien date and repeals the section on July 1, 2033. 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;
 - Instrumentation, command, and control systems for operating test stands;

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](#).

- Environmental protection, safety, and occupational health equipment.

Reporting Requirements. The **April 27, 2022**, amendments add RTC section 41 language relating to the goals, purposes, and objectives that the “credit” will achieve. The amendments require the Legislative Analyst’s Office (LAO) to submit a report by January 1, 2033, that summarizes its findings. Data required includes the change in the number of employees in the space flight industry, change in compensation and the amount of investment made by companies. The BOE and County Assessors shall provide information specified by the LAO as needed to research the report.

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.

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

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, and amended on April 5, 2021, to specify the specific types of property that would qualify under the expanded 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. **Extension of Sunset Date.** The **April 27, 2022**, amendments extend the space flight property tax exemption beyond the current January 1, 2024, lien date to and including the January 1, 2032, lien date. The amendments then repeal the section on July 1, 2033.
2. **Section 41 Requirements.** RTC section 41 only applies to taxes imposed under Parts 1, 10 and 11 of Division 2 of the RTC.¹² These code references refer to sales and use taxes, personal income tax, and corporation tax. RTC section 41 does not apply to property tax or the welfare exemption. If the reporting requirement is based on RTC section 41, then there is no basis for imposing a reporting requirement since this section does not apply to property tax.

Additionally, the performance indicators that the bill identifies for the LAO to include in their report are data that the BOE and County Assessors do not have access to. The author may wish to consider removing the BOE and County Assessors from this reporting requirement as this is data not available or provided to the BOE or County Assessors.

3. **Technical Amendment.** The **April 27, 2022**, amendments added section 2 to the bill relating to RTC section 41 reporting requirements. Subdivision (a) incorrectly references credit in the language. Since this bill is a property tax exemption, the author may wish to make the technical amendment suggested below.

(a) The specific goal, purpose, and objective that the ~~credit~~ exemption will achieve include increasing employment and investment in California in the space flight, launch, engine, and vehicle testing industry in California relative to other states with comparable infrastructure and capacity to support this industry.

4. **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 the 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.”

¹² RTC section [41, subd. \(a\)](#).

Because the Legislature cannot exempt real property without Constitutional authorization, the use of infrastructure could have caused confusion or controversy.¹³

5. **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.
6. **Related Property Tax Rule 133 and 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 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.
7. **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.

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.

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

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

*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.*