

Amend Revenue and Taxation Code Section 441 to eliminate a requirement that owners of noncommercial boats with an initial cost of more than \$100,000 file a property statement every year.

Source: Senate Bill 1777, 2008 (Property and Special Taxes Department)

Existing Law

Generally, privately owned boats held for personal use are assessable each year for property tax purposes as taxable personal property. While the Department of Motor Vehicles (DMV) or the Coast Guard is responsible for collecting registration fees on vessels, local county assessors are responsible for the annual property tax assessment of vessels (boats) whether trailered or on the water that have situs in their county. Taxable personal property is annually reassessed at its current fair market value as of the January 1 lien date and the resulting taxes are due on August 31.

Under current law, each person owning a boat with an initial cost of \$100,000 or more is subject to an *annual* reporting requirement. Other boat owners are required to file a report only upon the request of the assessor. Specifically, Revenue and Taxation Code Section 441 requires property owners (*other than* manufactured home owners) with taxable personal property holdings with an initial cost of more than \$100,000 to file a "property statement" with the county assessor every year. In connection with this provision, Property Tax Rule 171 in turn requires the assessor to mail a property statement to any person required by law to file one, in order to prompt taxpayers to complete and file the annual statements. These provisions of law apply to all taxable personal property and are not specific to boats.

The Board has prescribed a special property statement called the "Vessel Property Statement" that is specific to boats for purposes of Section 441. The vessel statement requests a variety of information on the vessel -- such as the type, size, vessel number, builder, model, length, engine type, year built, equipment, cost, etc.

In the annual assessment of noncommercial vessels, many counties use various mass appraisal procedures in determining the annual assessed value. For instance, when a noncommercial vessel establishes tax situs in a county for the first time, the assessor will request that the vessel owner file a property statement and determine an initial value. In subsequent years, the assessor adjusts that value applying a depreciation schedule developed by the county that reflects depreciation trends for various classes of noncommercial vessels. Thereafter, on a three or four year cycle, the assessor resets the value using nationally published value guides (i.e., blue books). Owners are annually sent a notice of the new value and instructed to contact the assessor if the condition of the vessel has changed or new equipment has been added.

An impediment to using these administratively practical and cost effective techniques occurs because of the *annual* statement requirement for certain boats. The statement must be mailed out by the assessor, completed and filed by the taxpayer, and then processed when returned. Moreover, while current law limits the annual filing to boats that *initially* cost more than \$100,000, the annual filing requirement remains in play even after the value of the boat has since depreciated below that amount.

Some counties, in recognition of the inefficiency of the annual reporting requirement and given their limited resources, do not mail the property statements every year and, thus, are not in compliance with existing law. Likewise, boat owners are not in compliance with the law.

This Proposal

This proposal amends Section 441 to provide that a person who owns a boat that initially costs more than \$100,000 and that is not used for any commercial purpose is not required to annually file a property statement with the county assessor. Currently, only a person that owns a manufactured home is excluded from this annual filing requirement. An owner of a noncommercial boat would only be required to file a property statement if the assessor makes a written request. This is because Section 441 specifies that every person not required by law to file a statement, must, nevertheless, file one if the assessor makes a written request. A vessel used or held for *commercial* purposes would continue to be subject to annual reporting.

This proposal would reduce the cost associated with mailing and processing vessel property statements every year and in other counties it would reflect actual administrative practices. It would also give county assessors more flexibility. For example, assessors could then make annual requests at a higher threshold level or at a level appropriate for the county. Alternatively they could make requests on a periodic rather than annual basis. For affected taxpayers, this would eliminate the need to file a statement every year that seeks information previously provided and the associated risk of a 10% penalty if the statement is not returned timely.

Modifying the annual reporting requirement should not have an impact on the discovery or assessment of boats. The primary discovery method for boats does not result from the property statement as few boat owners independently file an initial vessel property statement. Rather, they are first prompted to file a statement by the assessor. The assessor's discovery program includes:

- **Coordination with the DMV.** Vehicle Code Section 9869 requires the DMV to transmit information to assessors which typically occurs on a monthly basis. In addition, most assessor's offices have a computer terminal with a direct link to DMV boat registration records.
- **Certificates of Documentation issued by the United States Coast Guard.** A data base of these vessels is available online and can be used to extract

vessel characteristic, documentation, and ownership data and is updated monthly.

- **Harbor Master Reports.** Annual harbor master reports filed with the assessor identifying boats kept at the facility whether in the water or in dry storage.
- **Inspections.** On-site inspections of docks and marinas.
- **Referrals.** Referrals from other counties.

Additionally, in the case where a boat escapes assessment, the law allows up to four years of escape assessments for prior tax years. But if a boat owner was intentionally evading the tax, the law allows up to eight years of back taxes and a penalty of 25 percent of the additional assessed value.

Section 441 of the Revenue and Taxation Code is amended to read:

441. (a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800) or a vessel used or held for noncommercial purposes, having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.

(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision shall be applicable to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) (1) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs,

rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(2) (A) This subdivision shall also apply to an owner-builder or an owner-developer of new construction that is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

(B) The owner-builder or owner-developer of new construction described in subparagraph (A), shall, within 45 days of receipt of a written request by the assessor for information or records, provide the assessor with all information and records regarding that property. The information and records provided to the assessor shall include the total consideration provided either by the purchaser or on behalf of the purchaser that was paid or provided either, as part of or outside of the purchase agreement, including, but not limited to, consideration paid or provided for the purchase or acquisition of upgrades, additions, or for any other additional or supplemental work performed or arranged for by the owner-builder or owner-developer on behalf of the purchaser.

(e) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign the statements on behalf of the corporation.

(f) In the case of property owned by a bank or other financial institution and leased to an entity other than a bank or other financial institution, the property statement shall be submitted by the owner bank or other financial institution.

(g) The assessor may refuse to accept any property statement he or she determines to be in error.

(h) If a taxpayer fails to provide information to the assessor pursuant to subdivision (d) and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 does not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

(j) This subdivision shall apply to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and

complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.

(l) (1) After receiving the notice required by Section 1162, the manager in control of a fleet of fractionally owned aircraft shall file with the lead county assessor's office one signed property statement for all of its aircraft that have acquired situs in the state, as described in Section 1161.

(2) Flight data required to compute fractionally owned aircraft allocation under Section 1161 shall be segregated by airport.

(m) (1) After receiving the notice required by paragraph (5) of subdivision (b) of Section 1153.5, a commercial air carrier whose certificated aircraft is subject to Article 6 (commencing with Section 1150) of Chapter 5 shall file with the lead county assessor's office designated under Section 1153.5 one signed property statement for its personal property at all airport locations and fixtures at all airport locations.

(2) Each commercial air carrier may file one schedule for all of its certificated aircraft that have acquired situs in this state under Section 1151.

(3) Flight data required to compute certificated aircraft allocation under Section 1152 and subdivision (g) of Section 202 of Title 18 of the California Code of Regulations shall be segregated by airport location.

(4) Beginning with the 2006 assessment year, a commercial air carrier may file a statement described in this subdivision electronically by means of the California Assessor's Standard Data Record (SDR) network. If the SDR is not equipped to accept electronic filings for the 2006 assessment year, an air carrier may file a printed version of its property statement for that year with its lead county assessor's office.

(5) This subdivision shall remain in effect only until December 31, 2010, and as of that date is repealed.

(n) Every person owning a vessel used or held for noncommercial purposes shall, upon request of the assessor, file a signed property statement.