

[Assembly Bill 2425](#) (Berman)

Date: March 19, 2018 (Amended)

Program: Property Taxes

Sponsor: California Assessors' Association

Revenue and Taxation Code Sections 441 and 470

Effective: January 1, 2019

David Yeung (Chief) 916.274.3334

Glenna Schultz (Analyst) 916.274.3362

Chris Butler (Revenue) 916.445.0840

**Summary:** Allows an assessor to require a property owner to provide information or records to the assessor by mail or in electronic format, if available, and requires a property owner to make records available by mail or, if available, in electronic format upon the request of an assessor.

**Fiscal Impact Summary:** This bill would have no direct revenue impact.

**Existing Law: Business Property Statements.** Under existing property tax laws, an ad valorem tax is imposed every year on all assessable personal property used in a trade or business at its current fair market value. In making this annual assessment, taxpayers typically report the cost of their property holdings to the local county assessor on the "business property statement" as provided in Revenue and Taxation Code<sup>1</sup> section [441](#). The business property statement shows all taxable property, both real and personal, owned, claimed, possessed, controlled, or managed by the person filing the property statement.

When the aggregate cost of the taxable personal property is \$100,000 or more, the person is required to file a business property statement, signed under penalty of perjury, each year by April 1 with the assessor.<sup>2</sup> Property statements that are not filed by May 7, which would include those incomplete and not resubmitted by this deadline, are subject to a 10 percent penalty.<sup>3</sup>

Current law allows property statements to be filed electronically<sup>4</sup> and provides that the required signed declaration that the contents of the statement are true and accurate can be authenticated by means other than a traditional signature.

**Proposed Law:** This bill would:

- Allow an assessor to require a property owner to provide information or records to the assessor by mail or in electronic format, if available. *Section 441(d)(3)*
- Require a property owner to make records available by mail or, if available, electronic format upon the request of the assessor. *Section 470(a)*

**In General:** California's system of property taxation values property at its 1975 fair market value, with annual increases limited to the inflation rate, as measured by the California Consumer Price Index, or 2 percent, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or completion of new construction, the value of the property for property tax purposes is reassessed based on current market value (called the "base year value"). Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base

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<sup>1</sup> All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

<sup>2</sup> Section 441(b) and (i).

<sup>3</sup> Section [463](#).

<sup>4</sup> Sections 441(k) and [441.5](#).

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year value." For any lien date, the taxable value of any real property is the lesser of the property's base year value or its full cash value.<sup>5</sup>

**Business Personal Property.** Personal property used in a trade or business is generally taxable and its cost must be reported annually to the assessor on the business property statement as provided in section 441. Personal property is not subject to the valuation limitations of Proposition 13. It is valued each lien date at current fair market value. However, it is not administratively possible to individually determine the fair market value of every item of personal property used by all of the businesses in California every year. Consequently, mass appraisal techniques are necessary to complete the annual reassessment process.

**Business Personal Property Valuation Process.** Generally, the valuation of personal property is based on the acquisition cost of the property. The acquisition cost is multiplied by a price index, an inflation trending factor based on the year of acquisition, to provide an estimate of its reproduction cost new. The reproduction cost new is then multiplied by a depreciation index, also called percent good tables, to provide an estimate of the depreciated reproduction cost of the property (reproduction cost new less depreciation). The reproduction cost new less depreciation value becomes the taxable value of the property for the fiscal year.

With respect to business personal property assessments, the Board annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors*. This handbook contains several tables of equipment index factors, percent good, and valuation factors that aid in the mass appraisal of various types of personal property and fixtures as well as serve to promote statewide uniformity.

**Business Property Statement.** Section 441(a) requires that owner of taxable personal property who is not *required* to file a property statement "shall, upon request of the assessor, file a signed property statement." The property statement must list all taxable property owned, state the county and city where the property is located, and provide a detailed description of the property.<sup>6</sup> The statement is required to be filed between January 1 and April 1.<sup>7</sup> However, a penalty for late filing does not apply if the statement is filed by May 7. Additionally, property statements can be "amended" until May 31 to correct specified errors and omissions.<sup>8</sup> Late statements are subject to a 10 percent penalty.<sup>9</sup>

Section 441(d) permits the assessor to request information from the assessee in addition to the property statement (called section 441(d) requests), and provides, in part:

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.

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<sup>5</sup> Section 51(a).

<sup>6</sup> See sections 442, 443, 445.

<sup>7</sup> Section 441(b).

<sup>8</sup> Section 441(i).

<sup>9</sup> Section 463.

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**Appeals.** A reduction in an assessment may be requested if an assessee files an application for reduction in the assessment with the local assessment appeals board (AAB).<sup>10</sup> The assessee's application is then heard by the AAB, whose task it is to make a determination of value.<sup>11</sup> Prior to the hearing, the parties are responsible for obtaining relevant evidence for presentation to the AAB.<sup>12</sup> This process involves discovery, which may include exchanges of information between the assessee and the assessor.<sup>13</sup> Section [1606\(a\)\(2\)](#) and Property Tax Rule [305.1\(a\)](#) permit either party to, in specific circumstances, initiate an exchange of information with the other party by submitting certain information at least 30 days before the AAB hearing. In addition, assessors may also issue section 441(d) requests after assessees have submitted their applications for changed assessment, and prior to the equalization hearing.<sup>14</sup>

**Background:** Senate Bill [2092](#) (Stats. 2002, Ch. 775, SR&T Committee) was enacted to provide specific authorization for assessors to accept business property statements filed electronically. Additionally, it addressed signature requirements by addressing authentication by means other than a traditional signature.

### Commentary:

1. **Author's Comment.** Assembly Bill 2425 would modernize how an assessor may request and how a taxpayer may provide information needed for property tax assessments. Specifically, the bill would codify the existing practice of providing taxpayer information via the mail, as well as via electronic format. The goal is to improve government efficiency and make this process more convenient for all parties.
2. **Electronic Media.** Current law allows an assessor to accept the filing of a property statement by the use of electronic media, which includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.<sup>15</sup> This bill provides that the assessor may require information or records be provided by mail or, if available, in electronic format.<sup>16</sup> We note that proposed section 441(d)(3) might be more clearly stated in this manner: "The assessor may require that the information or records described in this subdivision be provided to the assessor by mail, or if available, in electronic format."
3. **Access to Business Records.** Currently, upon request of an assessor, a property owner is required to make business records available at his principal place of business, location, or address in California, or at a place mutually agreeable to the assessor and the owner.<sup>17</sup> This bill adds the requirement in section 441 that an assessor may require that the information or records be provided to the assessor by mail or in electronic format, if available. But, in section 470, this bill replaces the requirement that business records be made available for physical inspection with the requirement that business records be provided by mail or, if available, in electronic format.

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<sup>10</sup> Section 1603(a).

<sup>11</sup> Section 1604.

<sup>12</sup> *Assessment Appeals Manual* (May 2003), p. 36.

<sup>13</sup> *Bank of America v. County of Fresno* (1981) 127 Cal.App.3d 295, 305.

<sup>14</sup> *State Board of Equalization v. Cenicerros* (1998) 63 Cal.App.4th 122. Also, see Property Tax Annotation [180.0071.020](#).

<sup>15</sup> Section 441(k).

<sup>16</sup> Section 441(d)(3).

<sup>17</sup> Section 470.

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If the intent is to remove the assessor's ability to make a physical inspection of records, relinquishing the authority to audit records at the taxpayer's place of business will leave the assessor without the means to verify the data provided by the taxpayer. For auditing purposes, being able to conduct the audit where the books and records are kept in the regular course of business is essential at times, since access to *all* the assessee's records may be necessary to arrive at accurate audit findings. Lack of access to all relevant records at the time of audit is one of the reasons assessors often decline to conduct an audit at the office of the assessee's tax representative. The auditor may not know what invoices or other records she/he may want or need to see, or what records the assessee has that are available for examination, until the audit is underway. In addition, conducting a physical inspection of the property often goes along with conducting an audit of the books and records. A physical inspection is another source of valuable audit/appraisal information; for example, an auditor-appraiser may gain important information if able to speak directly with the plant manager about the condition of the equipment.

Thus, the author may want to consider giving assessors the ability to receive records via mail or in electronic format in addition to their existing ability to require a taxpayer to "make available at [the desired location] a true copy of business records relevant to the amount, cost, and value of all property that he or she [owns] in the county" (section 470(a)). We suggest the following amendment to section 470:

Upon request of an assessor, a person owning, claiming, possessing, or controlling property subject to local assessment shall make available at his or her principal place of business, principal location or principal address in California or at a place mutually agreeable to the assessor and the person, *or by mail or electronic format, if available*, a true copy of business records relevant to the amount, cost, and value of all property that he or she owns, claims, possesses, or controls within the county.

4. **Assessment Appeals Exchange of Information.** Assessors have had difficulty obtaining taxpayers records after assessment appeals have been filed. Some tax agents have refused to submit or mail copies of records directly to the assessor saying that the law only requires that the records be made available for examination at their place of business.

**Costs:** The State Board of Equalization would incur some minor absorbable costs in informing local county assessors, the public, and staff of the law changes.

**Revenue Impact:** This bill would have no direct revenue impact.