

Memorandum

To : Mr. David Gau
Executive Director (MIC 73)

Date: March 9, 2017

From : Amy Kelly, Acting Chief Counsel
Legal Department (MIC: 83)

Subject : **Board Meeting, March 28-30, 2017**
Item J - Chief Counsel's Rulemaking Calendar
Property Tax Rule 263, *Roll Corrections*

We request your approval to place proposed changes to Property Tax Rule 263, *Roll Corrections*, on the Chief Counsel's Rulemaking Calendar for the March 28-30, 2017, Board meeting. The proposed changes: (1) add clarifying numbering to subdivision (a); and (2) add a new subdivision (d) and renumber current subdivisions (d) through (i), accordingly, to incorporate the provisions of Revenue and Taxation Code (RTC) section 4831.1.

Rule 263 specifies the time in which an assessor may correct entries on an assessment roll. Currently, subdivision (a) of Rule 263 contains two one-sentence paragraphs. The first paragraph provides the general four-year period after the making of the assessment being corrected to correct roll entries that resulted from an error or omission not involving the exercise of value judgment. The second paragraph provides the additional six-month period following the close of an audit of a taxpayer's books and records to correct roll entries that resulted from an error or omission not involving the exercise of value judgment discovered as the result of the audit. Since each paragraph provides a different period in which roll corrections can be made, staff proposes to separately number the paragraphs as subdivision (a)(1) and (2) for clarification.

In addition, RTC section 205.5 provides an exemption from property tax for property that constitutes the principal place of residence of a veteran or the unmarried spouse of a deceased veteran, if the veteran is blind in both eyes, has lost the use of two or more limbs, or if the veteran is totally disabled as a result of injury or disease incurred in military service, which is commonly referred to as the "disabled veterans' exemption." Senate Bill No. 1458 (Stats. 2016, ch. 871) added section 4831.1 to the RTC to extend the time for correcting errors to the assessment roll related to the disabled veterans' exemption from the general four-year period discussed above to an eight-year period after the making of the assessment being corrected, effective September 30, 2016. Therefore, staff proposes to add subdivision (d) to Rule 263 and renumber current subdivisions (d) through (i), as subdivisions (e) through (j), to incorporate the new eight-year period for correcting errors to the assessment roll related to the disabled veterans' exemption and make the rule consistent with RTC section 4831.1.

Staff will request the Board's authorization to make the changes to Rule 263 under California Code of Regulations, title 1, section (Rule) 100, without the normal notice and public hearing process. The changes are appropriate for processing under Rule 100 because the changes reformat the two paragraphs in subdivision (a) as subdivisions (a)(1) and (2), and add subdivision (d) and renumber current subdivisions (d) through (i), accordingly, to make Rule 263 consistent with new RTC section 4831.1, and the changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Attached is a strikeout and underline version of Rule 263 illustrating the proposed changes.

If you have any questions regarding this request, please let me know or contact Mr. Bradley Heller at 916-323-3091.

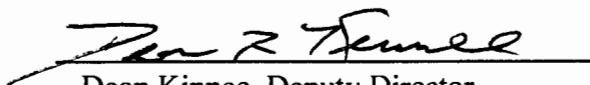
Recommendation by:


Amy Kelly, Acting Chief Counsel

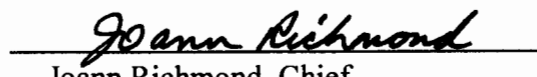
Approved:


David Gau, Executive Director

Approved:


Dean Kinnee, Deputy Director
Property Tax Department

BOARD APPROVED
At the 3/28/17 Board Meeting


Joann Richmond, Chief
Board Proceedings Division

Attachment: Proposed Changes to Property Tax Rule 263

cc: Mr. Dean Kinnee (MIC 64)
Ms. Joann Richmond (MIC 80)
Ms. Christine Bisauta (MIC 82)
Mr. Benjamin Tang (MIC 64)
Mr. Richard Moon (MIC 82)
Mr. Bradley Heller (MIC 82)
Ms. Glenna Schultz (MIC 64)

Rule 263. Roll Corrections.

Authority: Section 15606, Government Code.

Reference: Sections 4831, 4831.1, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

(a) (1) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

(2) If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under part 13 (commencing with section 5800) of division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in Revenue and Taxation Code sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) Corrections to the roll that relate to the disabled veterans' exemption pursuant to Revenue and Taxation section 205.5 may be corrected within eight years after the making of the assessment being corrected.

(d)(e) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under Revenue and Taxation Code section 1605 and the procedure for applying for cancellation under Revenue and Taxation Code section 4986.

(e)(f) If a correction will decrease the amount of unpaid taxes, the consent of the board of supervisors is necessary to make the correction.

(f)(g) Corrections authorized under this rule shall be made by the auditor upon delivery of the relevant information by the assessor.

(g)(h) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by article 2 (commencing with section 441) of chapter 3 of part 2 of division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

Rule 263 (Contd.)

(h)(i) If the roll of any taxing agency in the course of preparation is lost or destroyed because of public calamity and is reconstructed from available data, at any time before the declaration of default, the assessor may correct any erroneous assessment. The assessor shall:

(1) Send certified notices of the correction to the tax collector, the auditor, and the Controller.

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made.

(i)(i) On receipt of satisfactory, verified, written evidence that taxes have been entered on the secured roll as a lien on real property on which they are not legally a lien, the assessor shall transmit the evidence and his or her cancellation to the auditor. On direction of the board of supervisors, the auditor shall cancel the entry as a lien on that real property and reenter such taxes as follows:

(1) If the assessee has real property sufficient, in the assessor's opinion, to secure the payment of the taxes, as a lien on real property.

(2) Where there is not sufficient real property to secure the taxes on locally-assessed property, the taxes shall be placed on the unsecured roll. In the case of state-assessed property, the taxes shall be placed on the secured roll.

History: Adopted March 27, 2002, effective July 11, 2002. Adoption of the rule provides authority for roll corrections and requires assessors to follow specified procedures for corrections to the roll.

Amended July 3, 2012, effective July 3, 2012.

Amended September 10, 2013, effective December 24, 2013