

Memorandum

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

Date: March 7, 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 1051, *Extension of Time for Acts Required by Regulation*

We request your approval to place proposed changes to Property Tax Rule 1051, *Extension of Time for Acts Required by Regulation*, on the Chief Counsel's Rulemaking Calendar for the March 28-30, 2017, Board meeting. The proposed changes: (1) replace the rule's reference to the Board's "secretary" with a reference to the Board's "Executive Director"; (2) clarify that the rule applies to extensions of the time to perform acts that are fixed by a "rule" or regulation; (3) clarify the rule's references to the Board and the rule's reference to "board of equalization"; (4) rename chapter 12 where Rule 1051 is currently located, as "Racehorse Tax," and move Rule 1051 to new chapter 13, Miscellaneous; and (5) replace "Section" with "section."

Revenue and Taxation Code (RTC) section 155 currently authorizes the Board or its Executive Director to extend the time fixed in division 1 (commencing with section 50) of the RTC for the performance of any act by the assessor or county board for not more than 30 days, or, in case of a public calamity, 40 days. Section 155 previously referred to the Board or its "secretary," appointed pursuant to Government Code section 15604. However, technical amendments to section 155 replaced "secretary" with "executive director," effective January 1, 2004, because, when the Board appoints a person to be its secretary, the Board also designates that person to be the Board's chief executive officer with the title of Executive Director by resolution.

Rule 1051 implements RTC section 155 and it has not been amended since 1982. As relevant here, Rule 1051 currently provides that the "board or its secretary" may extend the time fixed by a Board "regulation" for the performance of any act by an assessor, "board of equalization," assessment appeals board, or other board, officer, or employee of a county or local governmental entity in the same manner and for the same periods as provided by RTC "Section" 155. In addition, Rule 1051 is currently located in chapter 12, *Miscellaneous*, of division 1 of title 18 of the California Code of Regulations with Rules 1045, *Administration of the Annual Racehorse Tax*, 1046, *Horses Subject to Ad Valorem Taxation*, and 1047, *Proper Classification of Racehorses*, which implement the racehorse tax imposed on owners of racehorses under part 12 (commencing with section 5701) of division 1 of the RTC, in lieu

of any property tax on racehorses. Therefore, staff proposes to update Rule 1051 to refer to the Board's "Executive Director" instead of the Board's "secretary" to make the rule consistent with the current provisions of RTC section 155. Staff proposes to rename chapter 12 as "Racehorse Tax," add new chapter 13, *Miscellaneous*, and move Rule 1051 into new Chapter 13 to make it easier to find Rules 1045, 1046, and 1047, and eliminate any confusion that may be caused by including Rule 1051 in chapter 12 with unrelated Rules 1045, 1046, and 1047. Staff also proposes to replace Rule 1051's reference to "Section" with "section" to make the rule consistent with California Style Manual, section 2:6, which provides for the use of a lower case "s" in the spelling of "section."

In addition, Government Code section 15606, subdivisions (a) and (c), authorize, the Board to prescribe "*rules* for its own government and the transaction of its business" (italics added), including the Board's assessment of state-assessed property for property tax purposes under chapter 4 (commencing with section 721) of part 2 of division 1 of the RTC, and "*rules and regulations*" (italics added) governing county assessors when assessing and local boards of equalization when equalizing for property tax purposes, under division 1 of the RTC. As a result, the regulations the Board has adopted to implement, interpret, and make specific the property tax laws are commonly collectively referred to as "Property Tax Rules" or "Rules" and individually referred to as a "Property Tax Rule" or Rule," including Rule 1051. (See, e.g., the "Property Tax Rules" published in the Board's Property Tax Law Guide.) Therefore, to avoid confusion, staff proposes to insert "Rule or" before "Regulation" in the title of Rule 1051 and insert "rule or" before "regulation" in the text of Rule 1051 to clarify that Rule 1051's provisions apply to dates fixed by the Board's Property Tax Rules.

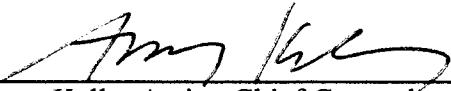
Furthermore, the term "county board," as used in RTC section 155, means a county board of supervisors meeting as a "county board of equalization" or an assessment appeals board. (RTC, § 1601, subd. (a).) Rule 1051 refers to the State Board of Equalization as the "board" in two places and also refers to a "board of equalization" in one place, but without specifying whether the term refers to the State Board of Equalization or a county board of supervisors when acting as a county board of equalization. Therefore, staff proposes to replace the rule's references to "board" with "Board" to clarify that the rule's current references to "board" are referring to the State Board of Equalization, consistent with the use of the term "Board" to refer to the State Board of Equalization in other rules, and add the word "county" before the rule's reference to "board of equalization" to clarify that the rule's current reference to "board of equalization" is referring to a county board of equalization.

Staff will request the Board's authorization to make the changes to Rule 1051 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 make the rule consistent with the current provisions of RTC section 155, clarify that the rule applies to extensions of the time to perform acts that are fixed by a Property Tax Rule, clarify the rule's current references to the Board and reference to "board of equalization," rename chapter 12, move Rule 1051 to a new chapter, and replace "Section" with "section," and the changes do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

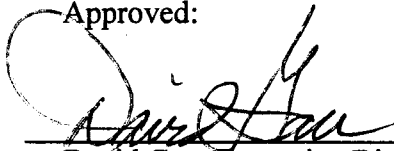
Attached is a strikeout and underline version of Rule 1051 illustrating the proposed changes.

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

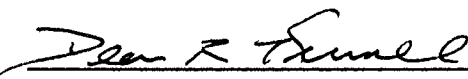
Recommendation by:


Amy Kelly, Acting Chief Counsel

Approved:

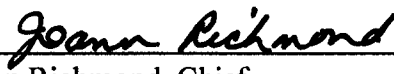

David Gau, Executive Director

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 1051

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)

Proposed Changes to Property Tax Rule 1051

Chapter 12. ~~Miscellaneous~~ Racehorse Tax

Rule 1045. Administration of the Annual Racehorse Tax

Rule 1046. Horses Subject to Ad Valorem Taxation

Rule 1047. Proper Classification of Racehorses

Chapter 13. Miscellaneous

Rule 1051. Extension of Time for Acts Required by Rule or Regulation

When any rule or regulation of the ~~board~~ Board fixes the time for the performance of any act by the assessor, county board of equalization, assessment appeals board, or other board, officer, or employee of a county or local governmental entity, the time may be extended by the ~~board~~ Board or its ~~secretary~~ Executive Director in the same manner and for the same periods as provided by ~~Section~~ section 155 of the Revenue and Taxation Code for extension of a time fixed by statute.

Note: Authority cited: Section 15606, Government Code. Reference: Section 155, Revenue and Taxation Code.