

SUBGROUP 2	12:00 p.m. to 1:00 p.m.- County Assessment Appeals Board (AAB) Deadlines:
SPEAKER:	COMMENT:
Kari Hammond	<p>Main Issues (finding property tax relief for taxpayers as it relates to):</p> <ul style="list-style-type: none"> • 2-year deadline for AAB • 60-day deadline for taxpayers to appeal supplemental assessment notice.
Kris Cazadd	<p>Info needed to submit a briefing paper to Board for consideration within 10-days. Info to be submitted to workgroup by Tuesday, April 28.</p> <ol style="list-style-type: none"> 1. Statement of need and supporting data related to this sub-group. 2. Legal arguments with possible hurdles to overcome. 3. Top 1-3 solutions on what needs to be done. 4. Recommendations to the Board. <p><i>Staff will work on draft (to be seen by the sub-workgroup before sending to the Board.</i></p>
John McKibben	<ul style="list-style-type: none"> • 2 yr. deadline is priority. Cases are backed up since lock down. • No 2yr. deadline in immediate future but will anticipate an influx of appeals by 2021. • Need relief from declared emergency in which a 120-day extension is needed to catchup. • If failed to hear cases, taxpayers' opinion on assessments will show up on the roll.
Tom Parker	<ul style="list-style-type: none"> • There will be a domino effect where local governments, schools, etc. will be impacted. • This July will mark 2-year time limit on cases. • Back up includes 300 cases to be heard per week by AAB and more than 100 hearing officers' cases in LA County. • Need time to address disputes between AAB and taxpayers.
Tom Parker	<ul style="list-style-type: none"> • There will be a domino effect where local governments, schools, etc. will be impacted. • This July will mark 2-year time limit on cases. • Back up includes 300 cases to be heard per week by AAB and more than 100 hearing officers' cases in LA County. • Need time to address disputes between AAB and taxpayers.
Kari Hammond	<ul style="list-style-type: none"> • These are 2 separate issues and solutions may be different.
Chris O'Neil	<ul style="list-style-type: none"> • Taxpayers are very aware that AAB can't process all cases. • As 2-year statute approach closer to the hearing date, taxpayers are asked to signed blanket waiver to extend timeline to hear cases in which such cases will not be heard for more than 2 years. It is unfair to the taxpayer. <p><i>New idea: Extend waiver with a define and set timeline. Prioritize scheduling when the dust settles.</i></p>

Barbara Nack	<ul style="list-style-type: none"> • Cases that was cancelled will be prioritized. • But keep moving forward and not put cases at the end.
Marcy Berkman	<p>3 factors the Board should consider.</p> <ul style="list-style-type: none"> • Emergency order for 2-year deadline to be extended. • Waivers • Restart cases (placed back on the calendar) as soon as possible.
Chris O'Neil	<ul style="list-style-type: none"> • How will taxpayers know which group (COVID or regularly waived cases) they belong to? • Many AABs will contact taxpayers to sign waivers as 2-year statute approaches.

PLUMAS COUNTY ASSESSOR

1 Crescent Street, • Quincy, CA 95971 • (530) 283-6380 • Fax (530) 283-6195



CHARLES W. LEONHARDT
ASSESSOR

Date: April 24, 2020

To: California State Board of Equalization

From: Charles W. Leonhardt, Assessor

Subject: Assessment Appeals Boards

On April 23, 2020 I participated in a conference call sponsored by the BOE Task Force on Assessment Appeals.

Statement of Need

In summary, due to the COVID-19 Pandemic, Assessment Appeals Boards have had to suspend hearings. At least 45 working days have been lost by many appeals boards to date, due to the Stay at Home Order. There is no clear evidence as to when normal operations will resume. As a result, many taxpayers have been delayed in the resolution of their appeals. Also of concern is the 2 year statute found in Revenue and Taxation Code Section 1604 and Property Tax Rule 309.

Solutions/Recommendations

1. Request the Governor make an Executive Order extending the two year limit in Section 1604 for the period of the Stay at Home Order and a sufficient buffer (120 days) to allow Assessment Appeals Boards to resume normal operations.
2. Support legislation drafted on behalf of the California Association of Clerks and Elected Officials to expand the number of Assessment Appeals Board allowable in counties. The legislation is AB 3373, sponsored by the Committee on Revenue and Taxation.
3. BOE has provided numerous Letters to Assessors on assessment appeal related topics over the years. As it appears that there will likely be an increase in filings, it might be a good time for staff to review that guidance and summarize in a quick reference guide. An example is LTA 2018/012 which discusses Multi County Assessment Appeals Boards. Since the legislation was passed, I am not aware of any such appeals boards being set up. This may be an appropriate time to refresh Assessment Appeals Boards and Assessors on the topic, well in advance of the potential flood of appeals.

Please feel free to contact me in the event you have any questions.



SBE Property Tax Relief Task Force TEAM 2

County Assessment Appeals Board (AAB) Deadlines

A. Statute of Limitations: 2-Year Deadline for AAB Hearing

1. Statement of need for relief

Revenue and Taxation Code Section 1604(c) provides that assessment appeal applications must be heard by AABs within two (2) years of the timely filing of the application, unless the applicant agrees to an extension of time for the hearing. Such extensions are usually referred to as “waivers of the 2-year statute.” Section 1604(c) also states that, in most cases, where there is no waiver before the 2-year statute expires, the applicant’s opinion of value on the application becomes the assessed value for that tax year.

SBE Property Tax Rule 324(a) says that 2-year statute waivers “extend and toll indefinitely the two-year period subject to termination of the agreement by 120 days written notice by the applicant.” In counties where large numbers of applications are pending, the revocation of waivers is sometimes disfavored by AABs due to the disruption that such revocations cause to AABs’ hearing calendars.

COVID-19 has closed AABs in all counties. However, the 2-year statute under Section 1604(c) continues to run on pending assessment appeal applications for which there are not 2-year waivers. AABs need the ability to postpone hearings so that pending applications without waivers will not automatically default to applicant’s opinion of value shown on such applications as required by Section 1604(c).

2. Data or estimates supporting statement of need

Total number of assessment appeal applications impacted is unknown but presumed to be in the thousands. Fiscal Impact: Revenue neutral

3. Legal issues from CATA perspective

Legal issues center around how relief is provided to AABs, as discussed below. If AABs are permitted to grant blanket extensions to applications, applicants’ due process right to timely hearings will be violated.

4. Practical solutions for providing relief

- A. One solution is for Section 1604(c)'s statute of limitations to be extended pursuant to the Governor's emergency authority. If that solution is pursued, the following concerns should be addressed:
 - 1. Applicants should be notified directly by AABs as to the status of their applications. Applicants should not be required to consult a website or social media or to telephone the AAB to determine the status of their applications.
 - 2. Applicants whose hearings are postponed beyond the 2-year statute of limitations pursuant to the Governor's state of emergency authority should not be asked to sign open-ended waivers of the 2-year statute of limitations as the Governor's exercise of emergency authority will remove any requirement for waivers.
 - 3. Applicants whose applications were in line to be but were not heard during the COVID-19 shutdown period should be given priority in hearing scheduling. Such applications should not "go to the end of the line" for scheduling once AABs are back in operation.
- B. If AABs request Section 1604(c) waivers of applicants whose hearings were delayed due to the COVID-19 shutdowns, those waivers should not indefinitely extend the statute of limitations but should only be for the period of time that the AABs were shut down due to COVID-19.

5. Recommendations to Board Members

- CATA recommends the SBE pursue an extension of Section 1604(c)'s statute of limitations under the emergency powers granted to the Governor.
- CATA recommends the SBE issue guidance to AABs in the form of LTAs as follows:
 - Instructing AABs to communicate directly with all applicants regarding the status of their applications (and not indirectly by requiring applicants to consult AABs websites, telephone AABs, etc.)
 - Instructing AABs to give priority in hearing scheduling, after the COVID-19 shutdown has concluded and AABs are again in operation, to applications that were scheduled or were to be scheduled for hearing but could not be heard due to the COVID-19 shutdown period.

- Instructing AABs not to use waivers of the 2-year statute for applications that were postponed due to the COVID-19 shutdown unless such waivers are limited to the COVID-19 shutdown period.

* * * * *

B. Statute of Limitations: 60-day Deadline to File Assessment Appeals with AABs

1. Statement of need for relief

County Assessors and Tax Collectors send supplemental assessment and escape assessment notices and tax bills to assessees and taxpayers by U.S. Mail. Supplemental/escape assessment notices and tax bills must be appealed to AABs within 60 days of the date of mailing pursuant to Revenue and Taxation Code Section 1605 and SBE Property Tax Rule 305. Due to COVID-19 “stay-at-home” orders, some assessees/taxpayers are not able to retrieve (either readily or at all) U.S. Mail sent to the mailing addresses used by Assessors and Tax Collectors. As a result, assessees and taxpayers will not be able to file timely assessment appeal applications within the 60-day statutory window for appealing supplemental and escape assessments.

2. Data or estimates supporting statement of need

It is difficult to estimate the number of assessees/taxpayers who have been and are unable to regularly access their U.S. Mail during the period of the COVID-19 shelter-in-place orders. Current information shows that many companies have laid off or furloughed employees, which increases the likelihood that notices and tax bills sent and received by U.S. Mail are not being processed. Information also shows that many business locations are closed due to their classification as “non-essential,” which means those locations are not able to receive U.S. Mail.
Fiscal Impact: Revenue neutral

3. Legal issues from CATA’s perspective

Section 1605 and Rule 305 set forth the mandatory 60-day period for filing assessment appeal applications based on receipt by U.S. Mail. There are no exceptions in Section 1605 or Rule 305 for events such as the COVID-19 pandemic which have placed limitations on assessees’ and taxpayers’ ability to receive supplemental/escape assessment notices and tax bills mailed by Assessors and Tax Collectors.

4. Practical solutions for providing relief

- A. Create a “safe harbor” period for the acceptance of late-filed assessment appeal applications during the period of the COVID-19 pandemic as follows: For all notices and tax bills that were sent via U.S. Mail to assessees/taxpayers by Assessors and Tax Collectors between February 1 and July 1, 2020, if the assessee/taxpayer files an assessment appeal

application with the AAB by October 1, 2020, such application will be deemed timely. Because this is an extension of a statutory deadline, the Governor would have to grant such extension under his emergency powers.

- B. If the Governor does not grant relief under his emergency powers, ask the Legislature to amend Section 1605 to provide for the relief described in the prior paragraph.

Suggested amendment to Section 1605, adding subparagraph (b)(3):

(3) Where the notice of a supplemental assessment or the notice of an escape assessment, or the tax bill relating to such supplemental assessment or escape assessment, bears a postmark between February 1 and July 1, 2020, the application shall be filed with the clerk not later than October 1, 2020. Applications filed by that date shall be deemed timely filed by the clerk.

- C. Where taxpayers are unable to timely file assessment appeal applications due to COVID-19 “stay-at-home” orders, permit taxpayers to file applications with an affidavit attached explaining the reason for the delayed filing attached to the application form as provided in Section 1605(b)(1) and Rule 305(d)(4).

5. Recommendations to Board Members

- Present a request to the Governor for emergency relief pursuant to his emergency powers to extend statutes of limitations as described above.
- Alternatively, ask the Legislature to amend Section 1605 to allow for the “safe harbor” relief outlined above.
- Alternatively, issue an LTA to AABs stating that applications filed by assesseees/taxpayers pursuant to Section 1605(b)(1) and Rule 305(d)(4), with an attachment explaining that the reason for the late filing was COVID-19-related, should be accepted.
 - The LTA should recommend “safe harbor” mailing dates of February 1 through July 1, 2020 for notices/tax bills, and October 1, 2020 as the date for filing timely assessment appeal applications.
 - The LTA should also recommend that AABs make “COVID-19 Extension Declaration” forms available for applicants to attach to assessment appeal applications.

BRIEFING PAPER

Team 2: County Assessment Appeals Board (AAB) Deadlines

Clerks of the Board and Board Counsels

Statement of Need

County Boards of Equalization and County Assessment Appeals Boards (County Boards) need an executive order from the Governor (or alternatively a delegation of authority from the Governor to the State Board of Equalization and an executive order from the State Board) that extends and tolls the two-year time limit established by Revenue and Taxation Code Section 1604 and Property Tax Rule 309 for the duration of the COVID-19 emergency – as defined by State or County declarations of emergency, whichever is of greater duration – plus 120 days after the termination of the emergency, in order to allow the County Boards to properly perform their constitutional function of conducting hearings and determining the correct property tax roll value of properties that come before the boards on appeal.

Under Section 1604 and Property Tax Rule 309, County Boards are required to render their decision on an assessment appeal application within two years after the assessment appeal application was filed. If the County Board fails to do that, the applicant's opinion of value, as stated on the assessment appeal application, is placed on the tax roll and becomes the basis for calculating the taxes owed on the property for the year or years covered by the application. There is no requirement that a taxpayer place a reasonable value on the application. Oftentimes, the applicant's opinion of value stated on the application is unrealistically or artificially low, and in hopes of a windfall, some applicants – most frequently applicants represented by some professional tax agents or attorneys – even state on their applications that their opinion of the subject property's value is \$1 or even zero. Thus, for example, because of the COVID-19 emergency and its resulting huge spike in the number of appeals filed with the County Board, a County Board could be required to reduce the assessed value of a large corporation's property that has tens of millions of dollars on the roll to \$1 or zero because COVID-19 prevented the AAB from conducting a hearing and deciding that assessment appeal application before the two-year statute expired.

Unless the relief necessitated by the COVID-19 emergency is granted, County Boards will be unable to fulfill their constitutional duty of establishing the correct fair market value of the subject property as the roll value. As a result of the two-year statute expiring, crucial property tax revenue for schools, hospitals, health clinics, law enforcement, fire and rescue, and other vital public services will be lost.

Due to the COVID-19 emergency, County Boards have been unable to conduct assessment appeal hearings since mid-March. By the time the State Board of

Equalization meets in May, two months will have passed since County Boards across the State were able to conduct their assessment appeal hearings. Stated another way, by the time the State Board meets in May, due to the COVID-19 emergency, the County Boards will have already lost 1/6 of the time available to them this year to conduct hearings and determine value, and they will also already have lost 1/12 of the total time available to them under the two-year statute to conduct hearings and determine value on pending applications. And there is no end to the shelter-in-place orders yet in sight.

The first impacts will be seen on assessment appeal applications for which the two-year time limit will expire in the next few months. For some applications, this means that the two-year time limit may expire while the shelter-in-place orders are still in effect. Even after the shelter-in-place orders are lifted, County Boards will need to give applicants and assessors 45-day notice of their hearing dates so that the parties can prepare for hearing. Even once the County Boards begin conducting assessment appeals hearings again, attending to the thousands of assessment of appeal applications that were unable to be heard during the COVID-19 emergency will cause other pending assessment appeal matters to have their hearing dates pushed back closer to the two-year deadline as well, thus continuing to exacerbate the backlog of assessment appeal applications at risk of not being heard and decided before the two-year time limit expires.

Further, even once the shelter-in-place orders are lifted, a variety of constraints will continue to hinder the ability of County Boards to timely perform their duty within the statutory two-year time limit. Social distancing to prevent the spread of COVID-19 will mean that fewer cases can be scheduled on a given day. The number of hearings that can be scheduled in any given week will be further hindered by limitations on the availability of hearing rooms large enough to allow for proper social distancing; some County Board hearing rooms are too small to allow for proper social distancing. This will further adversely impact the number of cases that can be heard before the two-year time limit expires. So too, will many County Board members (and also their counsel) fall within the high-risk group that has a truly terrifying risk of death due to COVID-19. In some counties, even in those with multiple 3-member AAB panels, so many of the AAB members fall within this high risk group that there are no hearing officers outside of this high risk group and not enough AAB members who fall outside the high risk group to constitute even a single 3-member AAB panel. And this is particularly true with respect to the highly qualified appraisers – such as MAIs – who are best qualified to evaluate large complex property tax assessment appeals.

While the County Boards can request that Applicants sign a waiver of the two-year statute, some applicants prefer the windfall they would be granted if the two-year statute ran and are therefore unwilling to sign a waiver. And some applicants are non-responsive to inquiries from the clerks of the County Boards. Further, the law permits

applicants to revoke their waivers by giving 120-day notice to the County Board that they are doing so. Accordingly, the potential availability of waivers does not provide a solution to the problem caused by the COVID -19 emergency.

An order extending and tolling the Section 1604/Rule 309 two-year time limit will help allow County Boards to resume normal operations, provide taxpayers and assessors time to prepare for resumed hearing schedules, and help ensure that the AAB can fulfil its constitutional duty of establishing the correct property value rather than having an artificially low amount entered on the tax rolls because the COVID-19 emergency prevented the County Boards from hearing assessment appeals before expiration of the two-year time limit.

Assessment Appeals Data

The data we are submitting (see Attachment I at the end of this Briefing Paper) is based on a sampling of the six counties represented on the County Assessment Appeals Board Deadlines Team (Team 2). Although very large assessment appeal volumes are primarily found in the larger counties, we made sure that representation on the committee and the data sample include a smaller, more rural county. It is important to remember that “all things are relative”: While a smaller county reports smaller volumes of appeals and smaller dollar amounts of assessed value at risk in those appeals, the impact of workload spikes and potential losses of assessed value, and therefore, property tax revenue, have similar impacts on schools and other publicly funded programs in those counties, compared to larger counties.

The State Board of Equalization possesses volume data covering many years, in terms of number of appeals filed in each county, volume of appeals by property types, and volume of types of final actions on appeals. However, we believe that the tables of data included in this Briefing Paper also will give the Task Force a clear indication of the amount of assessed value of property on the roll relating to currently pending appeals -- especially appeals for which no waiver of the two-year deadline is on file -- that is potentially at risk.

We have included a table that compares the percentage of the roll value that is retained on properties after a hearing and decision by the County Board of the participating counties during a *typical* year, to the anticipated retention of the roll value of the appeals whose two-year deadline comes due on or before 12/31/20 if the County board were to fail to render a timely decision on those appeals. The figures demonstrate the vital need for relief to make sure such defaults do not occur.

The data also shows the number of applications that would have been resolved were it not for the COVID-19 emergency that resulted in canceled hearings and hearings that could not even be scheduled, which have added to the backlog of pending appeals. It is important to remember, that this number only represents appeals whose hearings had

been scheduled then canceled and does not include hearings that otherwise would have been scheduled and conducted during the remainder of the continuing closure. Another thing the data shows is the number of appeals and the amount of roll value at risk for appeals whose two-year deadline will run out just within the remaining months of calendar year 2020.

We want readers of this report to be acutely aware that, other than the tables showing historical appeal rates, most of the reported data represent pending appeals during and immediately following years of relatively low rates of appeal. We strongly recommend that Task Force members, and particularly Members of the State Board, review the Board's data for, say, the years 1994 through 1997, to see historical data on how high the rate of appeal can rise in a very short time. It is very sobering, indeed. One can then easily imagine what the appeal rate and amount of at-risk roll value we would see as a result of the sure-to-come impact of COVID-19 on the economy, on the fair market values of property in California, and ultimately, on the rate of assessment appeal filings.

Legal Issues

Revenue and Taxation Code Section 1604 and Property Tax Rule 309 require County Boards to hear the applicant's assessment appeal application and render their determination on that application within two years, otherwise the applicant's opinion of value is entered as the roll value upon which property taxes are levied and automatically triggers a tax refund to the applicant, plus interest.

Rule 309 also collects exceptions to the two-year deadline contained in various provisions of the Revenue and Taxation Code and enumerates those exceptions: (1) when the applicant waives the two-year time period (commonly referred to as a "time waiver" or a "waiver"); (2) when the applicant has not submitted a full and complete property tax statement; (3) when the applicant is not fully compliant with its obligations to provide information and documents responsive to Section 441(d) requests or a Rule 305.1 information exchange; (4) when controlling litigation is pending; and (5) when the applicant has initiated proceedings to disqualify a board member.

The County Boards are bound by this statutory two-year deadline. As the State Board of Equalization noted in Annotation 190.0041 and its advisory letter dated January 18, 2001, the county has a duty to comply with Section 1604(c) even if the taxpayer does not request that the county comply with the statute after the two-year deadline expires. In *United Enterprises, Ltd. V. Assessment Appeals Board* (1994) 22 Cal. App.4th 152, 160, the court of appeal stated that an assessment appeal application is "essentially deemed granted by lapse of time" by operation of Section 1604(c).

While Revenue and Taxation Code section 1604(c)(1) and RTC 309 do permit an applicant to waive the two-year statute (this is generally done by signing a waiver form)

that is still no solution to the administrative problem caused by the COVID-19 emergency. Many applicants prefer to receive the windfall of having their opinion of value conclusively entered as the roll value. And many applicants are simply non-responsive to inquiries from the clerk. Even those applicants who do sign waivers may generally terminate such waivers on 120-day notice to the AAB. For example, Property Tax Rule 323 permits applicants to postpone or continue their hearings under certain circumstances in exchange for an extension and tolling of the two-year statute, but permits applicants to terminate such waivers by giving 120 days' written notice to the County Board.

While Revenue and Taxation Code Section 155 gives the State Board of Equalization and its Executive Director the ability to provide County Boards with some small modicum of relief, even *that* grant of authority is likely insufficient in the context of the COVID-19 pandemic. Section 155 provides that the State Board of Equalization or its Executive Director may extend the time fixed for the performance of any act by a County Board for not more than 30 days, or in the case of a public calamity, 40 days. On first read, it appears that only a single 40-day extension could be granted. But here, the COVID-19 pandemic has already prevented County Boards from performing their constitutional duty to determine fair market value for longer than 40 days, and the impacts of the COVID-19 pandemic will continue to impact the County Board's ability to conduct hearings and determine value for quite some time to come. While it may be possible to broadly read Section 155 as permitting the State Board of Equalization or its Executive Director to grant multiple consecutive extensions to the County Boards, no appellate case has yet addressed whether or not the courts would uphold such a broad construction.

Should the only relief available to the State Board of Equalization and the County Boards be Section 155, the State Board of Equalization has the legal authority as the state agency to adopt a legal interpretation reading Section 155 broadly enough to allow more than one 40-day time extension to the County Boards where there is no published appellate authority holding one way or the other.

However, the Governor's authority, pursuant to Government Code Section 8571, to directly provide adequate relief is a more established source of legal relief.

Accordingly, the County Boards need relief in the form of emergency legislation, an Executive Order from the Governor extending the two-year statute for the time period of the COVID 19 emergency + 120 days, or an Executive Order from the Governor delegating to the State Board of Equalization or its Executive Director the authority to issue such an order. Barring such relief, the County Boards would need the State Board of Equalization to broadly read Section 155 as permitting consecutive extensions of equivalent duration.

Possible Solutions Discussed by Clerks of the Board and AAB Counsels

The overarching operational priority for clerks and counsel for the County Boards is to gain temporary relief from the two-year deadline. Clerks and counsels of the County Boards propose an order granting temporary relief from the two-year deadline contained in Revenue and Taxation Code Section 1604(c), which would read as follows:

Notwithstanding Revenue and Taxation Code Section 1604, the two-year deadline by which a County Board must render a decision in an assessment appeal shall be tolled for the duration of the COVID-19 emergency, as defined by state or county declarations of emergency, whichever is of longer duration, plus 120 days after the termination of the emergency to allow County Boards to resume normal operations, provide taxpayers and assessors time to prepare for resumed hearing schedules, and to reduce the backlog of appeals to a manageable level.

Possible Practical Solutions to Gain Appropriate Relief

We see three possible methods for obtaining that relief, which are described below, in order of priority:

1. **Executive Order by the Governor.** The Governor has full authority under the law to grant the described relief. An Executive Order from the Governor would be the quickest, most effective, and most efficient avenue for obtaining such relief. We strongly recommend that the State Board of Equalization join counties, without any further delay, in urgently requesting Governor Newsom to issue this Executive Order.
2. **Executive Order delegating the necessary authority to the State Board to grant the requested relief.** As a slower, but still effective, method of granting relief, the State Board of Equalization could approach the Governor and request that he delegate the legal authority to the Board to issue the desired emergency order providing temporary emergency relief from Section 1604(c). However, we assume this method would take days or probably weeks to accomplish, unnecessarily adding to critical backlogs and possibly causing county boards to begin defaulting on the two-year deadline in the coming weeks.
3. **State Board to interpret Revenue and Taxation Code Section 155 more broadly to permit successive 40-day extensions of the two-year deadline.** Historically, deadline extensions under Section 155 have been granted as one-time events. But the language of this section is not clear on this point and there is no case law to provide any guidance either. The section could be interpreted to allow multiple, successive deadline extensions, based on need, throughout the duration of the emergency and for 120 days thereafter. However, in our view this method would be

the least desirable of the three options because it would be more labor intensive than the other two options and might create delays for the State Board, given the notice requirements under the Bagley-Keene Act. Nevertheless, absent appropriate action by the Governor, we recommend that this option be seriously considered as a fallback approach to solving the problem.

Inadequate or Inappropriate Suggested Solutions

1. **Legislation.** We have dismissed the possibility of asking the Legislature to enact an urgency bill to provide the temporary relief we seek. Certainly, the Legislature could amend Section 1604, or even Section 155, to contain relief, but this probably would be the most time-consuming method to provide that relief and is probably also the least likely to be successful and the least likely to happen in a timely fashion. It would run the greatest risk of the relief not happening – or not happening soon enough – to prevent appeals from running the two-year deadline.
2. **Extension of the 60-day Deadline for Filing Appeals on Supplemental Assessments and Escape Assessments.** Tax agents suggest that due to the COVID-19 emergency, the 60-day deadline to file an assessment appeal on supplemental and escape assessments should be extended, arguing that some taxpayers may be unable to get to their businesses to receive their mail.

No such relief is necessary. First, the vast majority of supplemental and escape assessment notices are issued to homeowners who receive their mail at their home. Second, businesses continue to receive mail and most have someone checking and processing the mail; and in some cases, businesses are having their mail automatically forwarded to someone who processes it.

But most importantly, even if some taxpayers do not timely receive their mail, the Revenue and Taxation Code already provides a sufficient mechanism for relief. For assessments made outside of the regular roll time-period, Revenue and Taxation Code Section 1605(b)(1) provides that if the taxpayer does not receive the notice of the supplemental assessment or notice of escape assessment at least 15 calendar days before the 60-day deadline to file an assessment appeal application, then the applicant may file their assessment appeal application within 60 days of the date of mailing printed on the tax bill or the postmark on the tax bill, whichever is later, along with an affidavit declaring under penalty of perjury that the notice of assessment was not timely received.

Thus, the law already contains a practical, fair, and equitable solution to provide relief to those taxpayers who did not receive their assessment notice in time to file an appeal within 60 days.

3. **Time Period Limits on the Two-Year Deadline Waivers.** State Board of Equalization Rule 323(a) provides for an indefinite time waiver of the two-year

deadline. Equally importantly, the same regulation language explicitly allows an applicant to unilaterally end the indefinite time waiver period by providing 120 days' notice to the County Board that it is revoking its waiver. Applicants control their own "destiny" in either allowing or not allowing the indefinite time waiver period to continue. There is no need for applicants to fear that, having granted a time waiver, their appeals will never be heard or placed at the "back of the line" if they exercise their right to terminate the time waiver. CATA's proposed relief request is a suggestion in search of a problem that really does not exist.

Further, placing an unnecessary time limit on a time waiver will add to the burden of county clerks of the board who administer the appeal system, forcing additional time and resources to be spent in checking whether an appeal time waiver is indefinite or has a time limitation component. Clerks will be very occupied in not only processing and scheduling appeals in the system, but also tracking any time waivers relating to the appeals that may have a time limit that must be controlled for and dealt with.

Moreover, as a practical matter, if only a 90-day time waiver were provided, half that time would be required just to provide the legally required 45-day notice of hearing. For example, if CATA's suggestion regarding the finite duration of time waivers had been in place in mid-March when the COVID-19 pandemic shut down appeal hearings, the following scenario would have occurred: For assessment appeals that were close to running the statute in mid-March, the taxpayer would have signed a 90-day time waiver. Because the two-year deadline to decide the appeal would then run out mid-June, the AAB would have been forced to send out a 45-day hearing notice of a new hearing date by the end of April and would need to hear and decide that appeal by mid-June. And yet, by the end of April, the COVID-19 emergency shelter-in-place orders would still be in place with no end in sight to those orders.

CATA's proposal would also exponentially increase the chances that when a County Board sets a hearing date, it will not be able to re-schedule that hearing date to accommodate tax agents who have filed myriad appeals across the state and are already committed to appear on that date in another jurisdiction. This would undoubtedly result in an increased number of cases denied for lack of appearance and would add administrative burdens on both tax agents and County Boards. And it would result in an increase in the number of cases that could not be reinstated after an agent failed to appear at the original hearing because the two-year time limit would have run in the meantime, effectively denying the taxpayer due process.

Recommendation

Priority Recommendation: The State Board of Equalization join with counties to seek an Executive Order by the Governor. Again, the overarching operational priority for clerks and counsel for the County Boards is to obtain temporary relief from the two-year deadline in Revenue and Taxation Code Section 1604(c). We strongly recommend that the State Board of Equalization join counties, without further delay, in urgently requesting Governor Newsome to issue the following Executive Order:

Notwithstanding Revenue and Taxation Code Section 1604, the two-year deadline by which a County Board must render a decision in an assessment appeal shall be tolled for the duration of the COVID-19 emergency, as defined by state or county declarations of emergency, whichever is of longer duration, plus 120 days after the termination of the emergency to allow County Boards to resume normal operations, provide taxpayers and assessors time to prepare for resumed hearing schedules, and to reduce the backlog of appeals to a manageable level.

Back-up Recommendations:

If the State Board cannot agree to adopt our priority recommendation, one of the following two back-up solutions should be approved. These are summarized in order of priority.

Executive Order delegating the necessary authority to the State Board to grant the requested relief, above. The State Board of Equalization should join with counties, without further delay, to urge the Governor to delegate the legal authority to the Board to issue an emergency order, providing temporary relief from Section 1604(c). The State Board of Equalization, in turn, would promulgate an order as stated above.

State Board to interpret Revenue and Taxation Code Section 155 more broadly to permit successive 40-day extension of the two-year deadline. Lastly, if the first two recommendations are not feasible, we recommend that the State Board of Equalization broadly interpret Revenue and Taxation Code Section 155 to permit multiple County Boards to request multiple periods of relief on a request-by-request basis, despite the cumbersome nature of this procedure.

Other Recommendations:

We also strongly recommend that the State Board of Equalization reject the following proposals discussed earlier in this report. They are:

Legislation to amend state law in Revenue and Taxation Codes Sections 155 and 1604. This method of seeking relief would be the least likely to succeed and slowest alternative to providing the necessary solution to the two-year deadline problem.

CATA-proposed requests for relief from the 60-day appeal filing period for supplemental and escape assessments; and

A time period limitation on Section 1604(c) deadline waivers. These proposed relief measures are not appropriate as a practical matter and should not be granted by the State Board of Equalization or the Governor because they are not necessary under existing law and they would create greater burdens and complications, negatively affecting all parties.

Attachment I
Assessment Appeal Data for BOE COVID-19 Briefing Paper
Los Angeles, Orange, Riverside, San Bernardino, Santa Clara and Stanislaus Counties

The CACEO submits property tax appeal data for Los Angeles, Orange, Riverside, Santa Clara, San Bernardino and Stanislaus Counties. The size of the counties varies from large urban counties to smaller rural counties. These counties also reflect the diversity of local county economies found in California. While only a sampling of the 58 counties, the data provides the State Board of Equalization with a useful picture of the impacts of COVID-19 on the property tax appeal system, both in terms of numbers of appeals as well as in fiscal impacts.

Table 1. All currently pending assessment appeal applications. **Table 2.** All currently pending applications without a waiver of the 2-year statute. **Table 3.** All currently pending applications exposed to 2-year statutes deadline through December 31, 2020. **Table 4.** Comparison of usual retained value after an AAB decision and the potential retained value if all applications run the 2-year statute and the applicant's opinion of value is placed on the county roll. **Table 5.** Applications postponed due to COVID-19 and average application scheduling. **Tables 6-11.** Appeals filed 2007 through 2018 for each County.

Table 1 - All Currently Pending (Open) AAB Applications as of 4/23/20				
County	Total Pending	Total Value on Roll	Total Applicant Opinion	Total Value at Risk
Los Angeles	26,964	\$443.67 billion	\$217.53 billion	\$226.15 billion
Orange	9,258	\$282.09 billion	\$152.12 billion	\$129.97 billion
Riverside	2,173	\$10.15 billion	\$6.10 billion	\$4.04 billion
San Bernardino	2,223	\$13.89 billion	\$8.28 billion	\$5.61 billion
Santa Clara	5,618	\$127.86 billion	\$52.39 billion	\$75.47 billion
Stanislaus	383	\$3.33 billion	\$1.90 billion	\$1.42 billion
TOTAL	46,619	\$880.99 billion	\$438.32 billion	\$442.66 billion
Table 2 - Currently Pending (Open) AAB Applications without Waivers as of 4/23/20				
County	Total Pending	Total Value on Roll	Total Applicant Opinion	Total Value at Risk
Los Angeles	11,035	\$161.26 billion	\$86.45 billion	74.80 billion
Orange	5,192	\$47.48 billion	\$26.44 billion	\$21.04 billion
Riverside	398	\$3.54 billion	\$2.01 billion	\$1.53 billion
San Bernardino	1,937	\$11.50 billion	\$7.05 billion	\$4.44 billion
Santa Clara	1,962	\$28.87 billion	\$15.40 billion	\$13.47 billion
Stanislaus	356	\$3.03 billion	\$1.75 billion	\$1.27 billion
TOTAL	20,880	\$255.68 billion	\$139.1 billion	\$116.55 billion
Table 3 - Currently Pending (Open) AAB Applications Exposed to Statute Deadline without Waivers through 12/31/2020				
County	Total Pending	Total Value on Roll	Total Applicant Opinion	Total Value at Risk
Los Angeles	1,786	\$26.27 billion	\$14.40 billion	\$11.87 billion
Orange	144	\$847,994,620	\$546,740,956	\$301,253,664
Riverside	1,111	\$3.40 billion	\$1.93 billion	\$1.46 billion
San Bernardino	352	\$1.05 billion	\$645,676,208	\$409,693,401
Santa Clara	181	\$4.25 billion	\$1.27 billion	\$2.98 billion
Stanislaus	66	\$361,775,698	\$233,401,804	\$128,373,894
TOTAL	3,640	\$36.18 billion	\$19.02 billion	\$17.15 billion
Table 4 - Comparison of Usual Retained Value vs Potential of Cases to Run Statute through 12/31/2020				
County	% of Retained value		Retained Value if Applications Run Statute	
Los Angeles	83%		\$14.40 billion of \$26.27 billion = 55%	
Orange	96%		\$546.7 million of \$848 = 64.4%	
Riverside	98%		\$1.938 billion of \$3.406 billion = 57%	
San Bernardino	97%		\$6.5 million of \$1,058 = 61%	
Santa Clara	95%		\$1.27 billion of \$4.25 billion = 29.9%	
Stanislaus	91.8%		\$233.4 million of 361.7million = 64.5%	

BRIEFING PAPER
Team 2 – County AAB Deadlines
Clerks and Board Counsels

Table 5		
County	Applications Postponed due to COVID-19	Average Applications scheduled
Los Angeles	3,480	850 – 1,300 per week
Orange	2,132	309 per week
Riverside	883	146 per week
San Bernardino	427	94 per week
Santa Clara	585	81 per week
Stanislaus	19	34 per month
TOTAL	7,526	

Table 6 - Los Angeles County		
Year	Appeals Filed	Assessed Value at Risk (billions)
2007	9,354	\$12.60
2008	41,809	\$25.44
2009	42,248	\$42.51
2010	36,107	\$179.63
2011	39,807	\$194.45
2012	38,570	\$182.30
2013	33,045	\$195.92
2014	30,492	\$192.18
2015	28,487	\$179.49
2016	23,697	\$156.47
2017	19,179	\$150.92
2018	17,713	\$153.80

Table 7 - Orange County		
Year	Appeals Filed	Assessed Value at Risk (billions)
2007	13, 255	Not available
2008	19,082	Not available
2009	19,371	Not available
2010	16,828	\$85.39
2011	17,558	\$44.81
2012	17,270	\$39.34
2013	11,239	\$36.53
2014	9,830	\$43.68
2015	8,258	\$30.45
2016	7,325	\$24.89
2017	7,928	\$21.50
2018	6,213	\$16.38

BRIEFING PAPER
Team 2 – County AAB Deadlines
Clerks and Board Counsels

Table 8 - Riverside County		
Year	Appeals Filed	Assessed Value at Risk (billions)
2007	12,422	\$11.05
2008	36,480	\$26.23
2009	29,022	\$28.62
2010	19,657	\$26.15
2011	12,466	\$23.32
2012	19,273*	\$21.93
2013	16,785*	\$16.28
2014	15,100*	\$14.47
2015	4,232	\$13.35
2016	4,356	\$12.45
2017	3,581	\$12.34
2018	3,724	\$13.65
	* 10,000 timeshares included as a unit	

Table 9 - San Bernardino County		
Year	Appeals Filed	Assessed Value at Risk (billions)
2007	5453	\$4.49
2008	12701	\$5.66
2009	13441	\$12.15
2010	9068	\$11.17
2011	7349	\$10.00
2012	6223	\$7.32
2013	4948	\$6.17
2014	3866	\$7.06
2015	3142	\$5.52
2016	2861	\$5.42
2017	2437	\$5.59
2018	2581	\$5.60

Table 10 - Santa Clara County		
Year	Appeals Filed	Assessed Value at Risk (billions)
2007	3,233	\$14.28
2008	5,630	\$18.78
2009	11,168	\$25.34
2010	9,163	\$23.67
2011	8,578	\$21.41
2012	7,371	\$22.10
2013	5,443	\$22.76
2014	4,853	\$27.73

BRIEFING PAPER
Team 2 – County AAB Deadlines
Clerks and Board Counsels

2015	3,437	\$24.78
2016	3,624	\$22.49
2017	2,793	\$23.63
2018	2,936	\$18.95

Table 11 - Stanislaus County		
Year	Appeals Filed	Assessed Value at Risk
2007		
2008		
2009		
2010		
2011	666	\$1,176,523,760
2012	467	\$1,037,429,530
2013	383	\$702,481,537
2014	301	\$501,704,222
2015	392	\$664,204,309
2016	254	\$541,686,929
2017	243	\$594,543,538
2018	237	\$665,625,715