

Wet Signature versus Electronic Signature-- 4:30 p.m. to 5:00 p.m.

Opening remarks by Cody Petterson- CEA- Board Member Mike Schaefer's Office

We would like to know the following:

- How many documents are impacted
- The extent of office closures
- The likelihood of closures past May 1st
- Can you handle and process them in a timely manner
- Speed at which a signature can be implemented.
- Percentage of filers who are likely to be negatively impacted by the difficulty
- Are there any legal impediments
- Do we need authority from the Gov's office or the Legislature

Cody's closing statements: At this point, it looks like a relatively constrained response that is directly responsive to businesses hurt by Covid-19 would be good. Give a blanket ability to receive faxes, scans, etc... but do not make it mandatory. There is clear concern about cost. Perhaps the BOE can issue guidance permitting the acceptance of scanned and emailed documents.

Requesting language—If any of the Assessors on the call have language they would like to share submit to Cody.

Rolf Bishop---San Diego County, ARCC

In regard to implementing a digital signature, we did this back in 2013 and one of the first challenges was finding an approved vendor who can supply digital certificates. We coordinated with the AG and the state and downloaded the guidelines available at that time and ten approved vendors were listed. One of the requirements was that it was not supposed to be "a wet signature" document. They had several forms that they didn't validate the signature (change of ownership for example) as these forms you want done in person. However, there are procedures in place that require triple authentication factors for this type of thing. It was important to get the "buy in" from the AG office. Once I provided all documentation showing laws and regulations that would allow us to proceed, it took 6 months. There was a lot of procedural things to do, but we could do it now in under three months. Since then, we have been working with a lot of other forms. It has been working smoothly. Main challenge: Finding the right vendors.

We attempted only documents that did not require a wet signature since otherwise, it would require the three-factor authentication. Advised by counsel not to attempt to do the ones that require a wet signature. This was advice, not in writing with no specific law, bill or regulation that was quoted.

Some people will always be reluctant to use digital signatures. But within a month of implementing, 60 to 65% used it. It has stayed around a 70% use rate as the older generation prefers to directly come in and not use computers

BBP Does not require a wet signature from my understanding.

I'm going to send an email to folks letting them know what documents require a wet signature

If anyone is interested in a demonstration of how it's done, I will set it up.

Jordan Marks- Taxpayer Advocate-- San Diego County ARCC ---

Regarding the digital signature, the homeowner's exemption side is where we have been concentrating. We are in the process of working on the Veteran exemption, Parent to Child Transfer and Prop 60/90.

Section 441 (K) of the RTC lays out where the authority comes from. .

Rob Grossglauser-- Pinnacle Advocacy LLC

Yesterday the SOS released emergency regulations regarding the use of electronic signatures. His concern is which cyber security protocols would need to be met and he asked for Rolf Bishop's input.

Rolf Bishop's response: As far as cyber security, we are looking at ways to encrypt and decrypt messages. Especially if it contains sensitive material. These were not in place when we developed it, but we have started

Leslie Davis—Calaveras County Assessor

Expects to be closed to public through mid to late May and maybe through June. People can mail still or drop under the door. Strongly encourage electronic signature. There is a cost contained in moving to some sort of electronic, authenticated signature. The thing that keeps coming through is, what you want to provide is on the backs of local governments. If you want to come up with guidance, don't make it mandatory.

She states she prefers scans and would like someone with a "legal brain" to talk about when she starts receiving scanned documents via email, ensuring they aren't public record.

Kris Cazadd responded stating she thinks Assessors are protected by statute because it is confidential by statute under the Public Act Records request.

Sean Keegan- Principal- Property Tax Assistance Company --

Requests guidance from the State Board of Equalization to allow the receipt of documents by any of the means mentioned in the discussion for 571 or Assessment appeals due to Covid19.

Don Gaekle – President/Assessor- CA Assessor’s Association/Stanislaus County

We are working as a county on getting signature/digital signature county-wide so we are on the same page. A lot of Assessors are more concerned about being able to accept faxes and email statements and that sort of thing. Digital electronic signatures are great, but in the meantime, he suggested to Brenda Fleming that the BOE expedite the process so it’s simplified.

He has staff in the office every business day so they can process anything that comes in. The public has access-- they can use a drop box. He has no restrictions on processing things that come into the office. For purposes of filing statements, he is going to ensure people can drop paper statements at the front door. Most of his demand is to accept scanned and emailed documents.

David Ginsborg - Deputy Assessor -- Santa Clara County

In terms of the wet signature issue, we requested the BOE provide us permission via a letter to exempt us from requiring a wet signature for the 571 L. As far as various ways of receiving the information (faxes, etc.), these are complex issues that we don’t want to hastily move on. There are security issues to consider such as social society numbers. We have an electronic filing system that many assessors do use which helps.

Vasquez	Antonio	Chair, CSBOE-District 3
Schaefer	Mike	Vice Chair, CSBOE-District 4
Bernal	Mark	Santa Clara County
Bishop	Rolf	San Diego County ARCC
Cazadd	Kris	CSBOE-District 3
Dronenberg	Ernie	San Diego County ARCC

Flores	Juan	CSBOE-District 3
Gaekle	Don	California Assessor's Association/Stanislaus County
Gartner	Gary	CSBOE-District 4
Ginsborg	David	Santa Clara County Assessor
Grossglauser	Robert	Pinnacle Advocacy LLC
Harrison	Michelle	CSBOE-District 4
Keegan	Sean	Property Tax Assistance Company
Leonhardt	Chuck	Plumas County Assessor's Office
Makamae	Robert	Santa Clara County
Marks	Jordan	San Diego County ARCC
Nakano	Jean	CSBOE-District 3
Petterson	Cody	CSBOE-District 4
Vasquez	Maria	Riverside County Assessment Appeals Board
Davis	Leslie	Calaveras County Assessor

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CHARLES W. LEONHARDT
ASSESSOR

Date: April 24, 2020

To: California State Board of Equalization

From: Charles W. Leonhardt, Assessor

Subject: Digital Signatures

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

Statement of Need

In summary, due to the COVID-19 Pandemic, there are a number of individuals and groups that are attempting to develop creative ideas to assist tax payers during this challenging time. One of those ideas is to more widely allow taxpayers to utilize electronic, digital and scanned copy signatures for items such as business property statements.

San Diego County's presentation outlined the complexities of migrating to a digital signature environment. Unfortunately, I missed the later portion of the presentation due to another commitment.

Even before COVID-19, there has been pressure for government to embrace the electronic/digital age.

The combination of San Diego's vision and economic resources made this project possible. Many smaller counties would likely implement these ideas, if a common resources was available to assist them with the legal issues surrounding the topic.

Solutions/Recommendations

1. BOE could provide a Letter to Assessors' outlining which forms can be submitted with digital or electronic signatures and which forms are restricted to wet signatures. The LTA could include information on best practices in implementing and managing digital, electronic and fax signature documents.



SBE PROPERTY TAX RELIEF TASK FORCE – TEAM 5

I. “WET SIGNATURES” – SIGNATURE REQUIREMENTS & FORM SUBMISSION

A. Statement of Need for Relief & Support of Action

Business Property Statement (BPS) Form 571 Filing

Every year taxpayers must file Business Personal Property returns with the county Assessors. The returns, sometimes called renditions, list all of the personal property taxpayers had as of January 1st of the year. Returns have to be filed by May 7th to avoid an automatic late filing penalty. Returns can be amended up to May 31st. Returns are filed with Assessors Taxpayers on Form 571s.

California Revenue and Taxation Code Sections 441(k) and 441.5(a) (2) give Assessors discretion to accept electronic signatures on Form 571 filings, but Assessor can demand original “wet” signatures from taxpayers.

Due to COVID-19 orders of “shelter in place”, it has caused barriers to taxpayers in retrieving the information necessary to complete these filings properly, CATA suggests,

1. Allow filing of Form 571s electronically
2. Allow Form 571s to be signed electronically by facsimile, scan, or any other media

Filing Assessment Appeal Applications for 2020

County Assessors mail supplemental assessment and escape assessment notices and tax bills to taxpayers at their business addresses. Supplemental/escape assessment notices must be appealed to the county Assessment Appeals Boards within 60 days of the date of mailing by Assessors. Due to COVID-19 “stay-at-home” orders, some property owners are not able to retrieve mail sent to their business addresses. As a result, business owners will miss the date for appealing supplemental and escape assessments.

Some Assessment Appeals Boards require original “wet” signatures on assessment appeal applications filed with those Boards, including agent authorizations that often accompany such applications. COVID-19 orders have made it difficult or impossible to obtain original “wet” signatures on assessment appeal applications.

CATA Suggestions for addressing these problems:

1. 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 explanation for the delayed filing attached to the application form.
2. Allow taxpayers to sign assessment appeal applications and related documents electronically by facsimile, scan, or any other media.

Benefits & Fiscal Impact

Electronic filing and electronic signature of county forms allow simplified procedures which reduce the administrative burden on taxpayers, county assessors, and county assessment appeals boards. This is beneficial to all the parties.

We believe that these recommendations will save the county assessors’ time in processing the actual BPS 571s and the county assessment appeals board staff’s time in processing the appeal applications. The “late filing” penalty assessments and the appeal applications filed on the penalty would be reduced since the BPS 571 was submitted timely due to the electronic submission.

Also, the filing of the Supplemental or Escape Assessment Appeal Application could be filed timely within the 60 day timeline if there is an electronic signature and submission allowance by all the CA counties.

Small businesses will also save time and monies in having to file an assessment appeal to fight this “late file” penalty which is caused by something beyond their control. They are fighting to be able to make payroll and keep their businesses open.

Small businesses are at a disadvantage regarding COVID-19 causing delays receiving their mail, being prevented from meeting at their place of business, and not being able to meet with their tax advisors. There will be instances where the receipt of the county notices or tax bills issued which come with a 60 day deadline for filing timely appeal applications which this time period will expire. It causes more time for all the parties with a “late filed” appeal application to request and hold a validity hearing.

B. Statutes

The requirement for the submission of the BPS Form 571s is specified in RTC Section 441 (a) and (b). The failure to file the BPS Form 571 by May 7th will result in the “late file” penalty being applied.

RTC Section 441

(a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800), 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.

(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.

RTC Section 441.5

a) In lieu of completing the property statement as printed by the assessor pursuant to Section 452, the assessor may accept the information required of the taxpayer by any of the following methods:

(1) Attachments to the property statement, provided that the attachments shall be in a format as specified by the assessor and one copy of the property statement, as printed by the assessor, is signed by the taxpayer and carries appropriate reference to the data attached.

(2) An electronically filed property statement that is authenticated as provided in subdivision (k) of Section 441.

(3) A property statement that is substantially similar to the property statement as printed by the assessor that is signed by the taxpayer.

(b) The assessor may consider information provided by any of the methods specified in subdivision (a) as the property statement for purposes of this division.

RTC Section 1603

(g) The clerk may accept an electronically filed application for changed assessment containing an electronic signature if all of the following criteria are met:

- (1) The application complies with all other requirements for filing the application.
- (2) The electronic signature is accompanied by the certification described in subdivision (f).
- (3) The electronic signature is authenticated in a manner that is approved by the county board of supervisors, which manner may include, but is not limited to, the use of personal identification numbers the clerk has assigned to applicants.

RTC Section 1605

(a) An assessment made outside of the regular assessment period is not effective for any purpose, including its review, equalization and adjustment by the county board, until the assessee has been notified thereof personally or by United States mail at the assessee's address as contained in the official records of the county assessor.

(b)(1) In a county other than the County of Los Angeles or a county in which the board of supervisors has adopted a resolution in accordance with subdivision (c), no later than 60 days after the date of mailing printed on the notice of assessment, or the postmark therefor, whichever is later. If the taxpayer does not receive the notice of assessment described in Section 75.31 or 534 at least 15 calendar days prior to the deadline established in the foregoing sentence, the party affected, or his or her agent, may file the application within 60 days of the date of mailing printed on the tax bill or the postmark therefor, whichever is later, along with an affidavit declaring under penalty of perjury that the notice of assessment was not timely received.

D. Recommendations

1. RTC Sections 441(k) & 441.5(a) (2) allows the assessor to receive the documents through electronic media. RTC Section 1603(g) allows the assessment appeals board to accept electronically filed applications with electronic signatures. Currently, the provisions do not protect the taxpayers nor provide the satisfactory relief to taxpayers for the business interruption caused by COVID-19.

Request to Governor for emergency relief. These powers are now vested in his office due to the emergency declaration to allow for the electronic signatures, form submissions by facsimile, scan, or any other media for county filed Business Property Statement (BPS) Form 571s, County Assessment Appeal Applications, and County Agent Authorization Forms in counties that do not permit this practice.

2. Legislation

RTC Sections 441, 441.5, 1603 & 1605 does not provide the satisfactory relief to taxpayers in 2020.

Because COVID-19's impact, taxpayers are concerned about the "penalty" assessments due to "late filing" of their BPS Form 571. Taxpayers are unable to receive any property tax reductions for the "penalty" assessments due to the "late filing" of any Forms 571-A, L, and or R caused by the COVID-19 – "Shelter in Place" directive.

Also, the filing of the Supplemental or Escape Assessment Appeal Application could be filed timely within the 60 day timeline if there is an electronic signature and submission allowance by all the CA counties.

- a. An alternative would be to issue a SBE LTA recommending an extension of the filing period due to COVID-19.
- b. Another option is to provide a standard form or affidavit to attach to the "late filed" appeal application to allow the county to "validate" the appeal applications as being "timely filed" due to COVID-19 issues.

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