

## Memorandum

**To:** Honorable Malia M. Cohen, Chair  
Honorable Mike Schaefer, Vice Chair  
Honorable Ted Gaines, First District  
Honorable Antonio Vazquez, Third District  
Honorable Betty T. Yee, State Controller

**Date:** January 12, 2022

**From:** Henry D. Nanjo  
Chief Counsel  
Legal Department (MIC: 121)

**Subject:** *Board Meeting, January 25-26, 2022*  
*Chief Counsel Matters - Item G – Rulemaking*  
*Authorization to Adopt Proposed Amendments to Property Tax Rule 302 Under CCR, Title 1, Section 100*

We request your adoption of the proposed amendment to Property Tax Rule<sup>1</sup> 302 under California Code of Regulations, title 1, section 100, *Publication of “Changes Without Regulatory Effect”* (Section 100). The proposed amendment to Rule 302 corrects a subdivisional cross-reference within the rule.

### **I. Background**

Property Tax Rule 302, *The Board’s Function and Jurisdiction*, lists the functions of a county board of equalization or assessment appeals board and clarifies the limits of its jurisdiction. Historically, Rule 302 consisted of three subdivisions (a), (b), and (c) with subdivision (a) containing six numbered subdivisions labeled (a)(1)-(a)(6). In 2020, Rule 302 was amended to add a new subdivision (a)(1) causing the original six numerical subdivisions (a)(1)-(a)(6) to be renumbered as subdivisions (a)(2)-(a)(7). Of relevance today, is a cross-reference in subdivision (b) to the pre-2020 subdivision (a)(4) that must be amended to reference the post-2020 subdivision that was renumbered as subdivision (a)(5) to retain its intended meaning and purpose.

The proposed amendment to Rule 302 updates the subdivision (b) reference to subdivision (a)(5) to return the reference to its original meaning and purpose.

Staff has determined that the change to Rule 302 is appropriate for processing under California Code of Regulations, title 1, section 100. This is because the change is a revision of a “cross-reference.” (Cal. Code Regs., tit. 1, § 100, subd. (a)(4).) Furthermore, the change does “not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.” (Cal. Code Regs., tit. 1, § 100, subd. (a).)

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<sup>1</sup> All references to Property Tax “Rule” or “Rules” are to sections of title 18 of the California Code of Regulations.

**II. Staff's Recommendation**

Based on the information stated above, staff requests the adoption of the proposed change to Rule 302 under Section 100, without the normal notice and public hearing process. These changes are appropriate for processing under Section 100 because the changes are consistent with current law and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

The proposed amendment to the Rule is attached hereto, in strikeout and underline format. If you need more information or have any questions, please contact Henry Nanjo, Chief Counsel, at (916) 274-3520.

Recommended by:

/s/ Henry Nanjo

Henry D. Nanjo, Chief Counsel

Approved:

/s/ BFleming

Brenda Fleming, Executive Director

Approved:

/s/ David Yeung

David Yeung, Deputy Director  
Property Tax Department

BOARD APPROVED on: \_\_\_\_\_

Catherine Taylor, Chief  
Board Proceedings Division

Attachment(s): Proposed Text of Rule 302

cc: Ms. Rose Smith  
Ms. Indhu Srinivasan  
Mr. David Lujan

Text of Proposed Amendments to  
California Code of Regulations  
Title 18. Public Revenues  
Division 1. State Board of Equalization – Property Tax  
Chapter 3. Local Equalization  
Article 1. Hearing by County Board

**302. The Board's Function and Jurisdiction.**

(a) The functions of the board are:

- (1) To ensure that all applicants are afforded due process and given the opportunity for a timely and meaningful hearing.
- (2) To lower, sustain, or increase upon application, or to increase after giving notice when no application has been filed, individual assessments in order to equalize assessments on the local tax assessment roll,
- (3) To determine the full value and, where appealed, the base year value of the property that is the subject of the hearing,
- (4) To hear and decide penalty assessments, and to review, equalize and adjust escaped assessments on that roll except escaped assessments made pursuant to Revenue and Taxation Code section 531.1,
- (5) To determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation.
- (6) To determine the allocation of value to property that is the subject of the hearing, and
- (7) To exercise the powers specified in section 1605.5 of the Revenue and Taxation Code.

(b) Except as provided in subdivision (a)(4)(5), the board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.

(c) The board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 531.1, 1603, 1604 and 1605.5, Revenue and Taxation Code.