

KERN COUNTY ASSESSMENT PRACTICES SURVEY

OCTOBER 2020

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No. 2020/052

October 9, 2020

TO COUNTY ASSESSORS:

**KERN COUNTY
ASSESSMENT PRACTICES SURVEY**

A copy of the Kern County Assessment Practices Survey Report is enclosed for your information. The State Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in specified counties to determine that the practices and procedures used by the County Assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Jon Lifquist, Kern County Assessor-Recorder, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the Assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Kern County Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from February through March 2019. The report does not reflect changes implemented by the Assessor after the fieldwork was completed.

Mr. Lifquist and his staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:dcl
Enclosure

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INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of specified County Assessors' Offices. This report reflects the BOE's findings in its current survey of the Kern County Assessor-Recorder's Office.¹

The Assessor is required to file with the board of supervisors a response that states the manner in which the Assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Kern County Board of Supervisors, Grand Jury, and Assessment Appeals Board. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Jon Lifquist, Kern County Assessor-Recorder, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

¹ This review covers only the assessment functions of the Assessor's office.

OBJECTIVE

The survey shall "...show... the extent to which assessment practices are consistent with or differ from state law and regulations."² The primary objective of a survey is to ensure the Assessor's compliance with state law governing the administration of local property taxation. This objective serves the three-fold purpose of protecting the state's interest in the property tax dollar, promoting fair treatment of taxpayers, and maintaining the overall integrity and public confidence in the property tax system in California.

The objective of the survey program is to promote statewide uniformity and consistency in property tax assessment by reviewing each specified county's property assessment practices and procedures, and publishing an assessment practices survey report. Every Assessor is required to identify and assess all properties located within the county – unless specifically exempt – and maintain a database or "roll" of the properties and their assessed values. If the Assessor's roll meets state requirements, the county is allowed to recapture some administrative costs.

SCOPE AND METHODOLOGY

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the Assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the Assessor.

Pursuant to Revenue and Taxation Code³ section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team – based on objective standards defined in regulation – that there are no significant assessment problems in the county.

This survey examined the assessment practices of the Kern County Assessor's Office for the 2018-19 assessment roll. Since this survey did not include an assessment sample pursuant to Government Code section 15640(c), our review included an examination to determine whether "significant assessment problems" exist, as defined by Rule 371.

Our survey methodology of the Kern County Assessor's Office included reviews of the Assessor's records, interviews with the Assessor and his staff, and contacts with officials in other public agencies in Kern County who provided information relevant to the property tax assessment program.

For a detailed description of the scope of our review of county assessment practices, please refer to the document entitled *Scope of Assessment Practices Surveys*, available on the BOE's website at

² Government Code section 15642.

³ Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code and all rule references are to sections of California Code of Regulations, title 18, Public Revenues.

<http://www.boe.ca.gov/Assessors/pdf/Scopemaster.pdf>. Additionally, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

We conducted reviews of the following areas:

- Administration

We reviewed the Assessor's administrative policies and procedures that affect both the real property and business property assessment programs. Specific areas reviewed include the Assessor's budget and staffing, workload, assessment appeals, disaster relief, assessment roll changes, and exemptions.

- Assessment of Real Property

We reviewed the Assessor's program for assessing real property. Specific areas reviewed include properties having experienced a change in ownership, new construction assessments, properties experiencing a decline in value, and certain properties subject to special assessment procedures, such as California Land Conservation Act (CLCA) property, taxable possessory interests, and mineral property.

- Assessment of Personal Property and Fixtures

We reviewed the Assessor's program for assessing personal property and fixtures. Specific areas reviewed include conducting audits, processing business property statements, business equipment valuation, and manufactured home assessments.

EXECUTIVE SUMMARY

This report offers recommendations to help the Assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the Assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an Assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit – the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

We examined the assessment practices survey of the Kern County Assessor's Office for the 2018-19 assessment roll and followed up on recommendations from our prior survey of this county.

In our 2015 assessment practices survey of Kern County, we made nine recommendations to address problems found in the Assessor's policies and procedures. Our review of these prior recommendations, responses, and current status are detailed in Appendix B.

In the area of administration, the Assessor is effectively managing the office's budget and staffing, workload, and assessment appeals. However, we made recommendations for improvement in the disaster relief, assessment roll changes, and exemptions programs.

In the area of real property assessment, the Assessor has an effective program for assessing California Land Conservation Act (CLCA) property. However, we made recommendations for improvement in the change in ownership, new construction, declines in value, and mineral property programs.

In the area of personal property and fixtures assessment, we made recommendations for improvement in the audit, business property statement, and business equipment valuation programs.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly, and that the overall quality of the assessment roll meets state standards.

We found no significant assessment problems as defined in Rule 371. Since Kern County was not selected for assessment sampling pursuant to Government Code section 15643(b), this report does not include the assessment ratios that are generated for surveys that include assessment sampling. Accordingly, pursuant to section 75.60, Kern County continues to be eligible for recovery of costs associated with administering supplemental assessments.

OVERVIEW OF KERN COUNTY

Kern County is located in southern California and encompasses a total area of 8,162.63 square miles, consisting of 8,131.91 square miles of land area and 30.72 square miles of water area. Created in 1866, Kern County is bordered by Kings and Tulare Counties to the north, San Bernardino County to the east, Ventura and Los Angeles Counties to the south, and San Luis Obispo and Santa Barbara Counties to the west.



At the time of this survey, Kern County had a population of 893,119. There are 11 incorporated cities in Kern County. Those cities include Arvin, Bakersfield, California City, Delano, Maricopa, McFarland, Ridgecrest, Shafter, Taft, Tehachapi, and Wasco. The county seat is Bakersfield.

The Kern County local assessment roll ranks 13th in assessed value of the 58 county assessment rolls in California.⁴ The total assessed roll value has increased by an annual average of 0.58 percent over the last five years.⁵

⁴ Statistics provided by BOE Annual Report Statistical Table 7 – *Assessed Value of County-Assessed Property Subject to General Property Taxes*, 2018-19.

⁵ Assessed value percent change is calculated using the average of five years from BOE Annual Report Statistical Table 7 – *Assessed Value of County-Assessed Property Subject to General Property Taxes*, from years 2014-15, 2015-16, 2016-17, 2017-18, and 2018-19.

FINDINGS AND RECOMMENDATIONS

As noted previously, our review concluded that the Kern County assessment roll meets the requirements for assessment quality established by section 75.60. This report does not provide a detailed description of all areas reviewed; it addresses only the deficiencies discovered.

Following is a list of the formal recommendations contained in this report.

- RECOMMENDATION 1:** Update the procedures manual to conform to changes in section 170(b).8

- RECOMMENDATION 2:** Improve the assessment roll changes program by: (1) correctly notating penalties on the assessment roll, as required by Rule 261, and (2) developing procedures that require an independent verification of assessment roll changes entered into the system.9

- RECOMMENDATION 3:** Improve the administration of the exemptions program by: (1) requiring claimants to submit a separate welfare exemption claim form for each year the welfare exemption is claimed, (2) granting the welfare exemption only on property that is held in the name of the organization issued the OCC, (3) properly applying late-filing provisions for welfare exemption claim forms that are not filed timely, and (4) notifying all claimants and include statutorily required language pursuant to section 254.5 when all or a portion of property is denied the welfare exemption.....12

- RECOMMENDATION 4:** Properly assess penalties in accordance with section 482(b).16

- RECOMMENDATION 5:** Value and enroll all assessable low value new construction when part of a larger structure, unless the aggregate base year value of the whole structure is less than \$5,000.....16

- RECOMMENDATION 6:** Send value notices to property owners and include statutorily required language pursuant to section 619.17

- RECOMMENDATION 7:** For purposes of establishing the lien date value of new reserves to add to the base year value of the property, use the value of new reserves based on the values used to enroll supplemental assessments for new wells.....18

RECOMMENDATION 8: Perform the minimum required number of audits of professions, trades, and businesses pursuant to section 469.20

RECOMMENDATION 9: Improve the business property statement program by:
(1) accepting only properly signed BPSs, and
(2) correctly applying penalties when BOE-577, *Aircraft Property Statement*, is not returned.....22

RECOMMENDATION 10: Improve the business equipment valuation program by: (1) exempting personal property owned and held by banks and financial corporations, and (2) applying appropriate percent good factors based on the purchase condition of mobile construction equipment.23

ADMINISTRATION

Disaster Relief

Section 170 permits a county board of supervisors to adopt an ordinance that allows immediate property tax relief on qualifying property damaged or destroyed by misfortune or calamity. The relief is available to any assessee whose property suffers damage of \$10,000 or more (without his or her fault) in a misfortune or calamity.⁶ In addition, section 170 provides procedures for calculating value reductions and restorations of value for the affected property.

To obtain relief under section 170, assesses must make a written application to the Assessor requesting reassessment. In addition, if the Assessor is aware of any property that has suffered damage by misfortune or calamity, the Assessor must provide the last known assessee with an application for reassessment. Alternatively, the board of supervisors may, by ordinance, grant the Assessor the authority to initiate the reassessment if the Assessor is aware and determines that within the preceding 12 months taxable property located in the county was damaged or destroyed by misfortune or calamity.

Upon receipt of a properly completed application, the Assessor shall reassess the property for tax relief purposes. If the sum of the full cash values of the land, improvements, and personal property before the damage or destruction exceeds the sum of the values after the damage by \$10,000 or more, the Assessor shall then determine the percentage reductions in current market value and reduce the assessed values by those percentages.

The Kern County Board of Supervisors has adopted the disaster relief pursuant to section 170. The county's ordinance grants the Assessor the authority to initiate a reassessment without an application where the Assessor determines that within the preceding 12 months taxable property was damaged or destroyed due to misfortune or calamity. Additionally, they have a disaster relief policy for the processing of claims in accordance with section 170.

RECOMMENDATION 1: Update the procedures manual to conform to changes in section 170(b).

We found that although the county's disaster relief ordinance has been updated to conform to the change to section 170, the procedures manual utilized by the appraisers has not been updated accordingly. The Assessor's procedures manual, *Annual Appraisal Responsibilities Disaster Relief Procedures*, states that the minimum property loss to qualify for calamity relief is \$5,000. However, section 170 was amended and this amount was increased to \$10,000 effective January 1, 2002.

The manual also fails to state that only partial relief is available if the value of the replacement property exceeds 120 percent of the market value of the pre-damaged property and that the replacement property must be purchased or newly constructed within five years of the disaster.

⁶ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Disaster Relief*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/disaster_general.pdf.

The Assessor's failure to update the procedures manual for appraisers to state that the minimum property loss required to qualify for disaster relief is \$10,000 may lead Assessor's staff to provide incorrect information to the public or improperly allow calamity relief.

Assessment Roll Changes

Each year the Assessor must complete the local assessment roll and deliver it to the auditor by July 1. Once the roll is delivered to the auditor, any correction that would decrease the amount of unpaid taxes requires the consent of the board of supervisors. All changes to the roll are authorized by specific statutes, and any roll change must be accompanied by the appropriate statutory reference.

Assessment roll changes fall under two general categories: escape assessments and corrections. An escape assessment is an assessment of property that was not assessed or was underassessed, for any reason, on the original roll. A correction is any type of authorized change to an existing assessment except for an underassessment caused by an error or omission of the assessee.⁷

In Kern County, two fiscal support supervisors oversee the roll correction entries: one is responsible for roll corrections related to real property and the other is responsible for roll corrections related to business property accounts. Four clerks assist with real property roll corrections and two clerks assist with business property roll corrections.

RECOMMENDATION 2: Improve the assessment roll changes program by:
(1) correctly notating penalties on the assessment roll, as required by Rule 261, and (2) developing procedures that require an independent verification of assessment roll changes entered into the system.

Correctly notate penalties on the assessment roll, as required by Rule 261.

We found that the Assessor does not notate section 463 penalties on the assessment roll as required by Rule 261.

County assessment rolls are public records that must be available for public inspection pursuant to Government Code Sections 6250, et seq. and section 408. Subdivision (a)(1) of Rule 252, which provides the minimum requirements for the content of assessment rolls, states that assessment rolls must include the penalties imposed upon assessments in the form required by Rule 261.

Rule 261 provides that when penalties are imposed under section 463, an entry on the local assessment roll is required. Subdivisions (a)(1) through (a)(3) of Rule 261 specify three different methods that may be used by the Assessor to notate applied penalties on the assessment roll. It should be noted, however, that this requirement does not apply to corrections that reduce the assessed value on the roll.

⁷ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Assessment Roll Changes*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/AssessmentRollChanges_Scope.pdf.

The consequence of the Assessor's failure to notate penalties on the assessment roll is that an explicit statutory requirement has not been met.

Develop procedures that require an independent verification of assessment roll changes entered into the system.

We found that the Assessor has no procedure in place that requires an independent verification of the information entered for assessment roll changes entered into the county's property tax system. Although we did not find any instances where an assessment roll change was incorrectly entered into the system, the lack of a procedure that requires an independent verification of assessment roll changes entered into the system leaves the Assessor vulnerable to unwarranted changes and keying errors.

Currently, the Assessor's office uses a single-entry keying system to enter assessment roll changes into the county's property tax system. A support clerk or a support supervisor enters assessment roll changes into the system from information contained in the appraisal or audit record and there is no independent verification of the information entered.

Good business risk management calls for data entry procedures that require an independent verification of data entered into the system. The ability to independently verify data entered into the system is especially important for changes made to original values established to ensure the integrity of the assessment roll.

We suggest that the Assessor develop procedures that require the independent review of assessment roll changes entered into the system. Procedures that require the review of all assessment roll changes entered would be a best practice. However, limited resources would necessitate a scaled down review based on criteria established by the Assessor in order to reduce risk. At the minimum, the Assessor's procedures should require the independent review of significant value assessment roll changes entered into the system.

The Assessor's current practices and procedures do not require an independent verification of the information entered for assessment roll changes, which may result in the enrollment of unwarranted or incorrect assessments.

Exemptions

Article XIII, section 1 of the California Constitution sets forth the general principle that all property is taxable unless otherwise provided. Section 3 of article XIII authorizes exemption of certain types of property from property taxation and section 4 authorizes the Legislature to exempt certain other types of property from property taxation.⁸

Our review of the Assessor's exemptions program included welfare exemptions.

⁸ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Exemptions*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/exemptions_general.pdf.

Welfare Exemption

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property owned and used exclusively for religious, hospital, or charitable purposes by organizations formed and operated exclusively for those purposes. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and County Assessors. The BOE is responsible for determining whether an organization itself is eligible for either an *Organizational Clearance Certificate* (OCC) for qualified organizations or a *Supplemental Clearance Certificate* (SCC) for limited partnerships that own and operate low-income housing, which have a qualified organization as the managing general partner. The Assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The Assessor may not grant a welfare exemption on an organization's property unless the organization holds either a valid OCC or SCC. The Assessor may, however, deny an exemption claim based on non-qualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

The welfare exemptions program in Kern County is administered by the assessment technician and overseen by a fiscal support supervisor. The assessment technician reviews and processes the claims and the real property appraisers perform field inspections to determine if the property, or a portion thereof, is eligible for exemption.

We reviewed a variety of welfare exemption claims for properties used for charitable, religious, scientific, and hospital purposes, including low-income rental housing properties. These claims included claims that were granted full and partial exemptions, first-time and annual claims, and late-filed claims.

RECOMMENDATION 3: Improve the administration of the exemptions program by: (1) requiring claimants to submit a separate welfare exemption claim form for each year the welfare exemption is claimed, (2) granting the welfare exemption only on property that is held in the name of the organization issued the OCC, (3) properly applying late-filing provisions for welfare exemption claim forms that are not filed timely, and (4) notifying all claimants and include statutorily required language pursuant to section 254.5 when all or a portion of property is denied the welfare exemption.

Require claimants to submit a separate welfare exemption claim form for each year the welfare exemption is claimed.

During our review, we found instances when the Assessor granted the welfare exemption for years for which the claimant had not submitted a claim form. These instances included a first-time claimant who filed a claim form requesting the exemption for the initial fiscal year of 2018-19 but was granted the exemption for several years prior to 2018-19 and claimants who were granted the exemption in years for which they failed to file an annual claim form.

Section 254 requires a claim form to be submitted for each year in which an organization seeks the welfare exemption. A basic premise of property tax exemptions is that certain qualifying uses of property return a benefit to the community in lieu of taxes that would have been assessed on that property. Welfare exemption claim forms provide critical information about the owner of property and on the usage of property as of the January 1 lien date of the fiscal year for which the exemption is sought. This information is needed in order to determine initial eligibility and continued eligibility for the exemption.

By not requiring welfare exemption claim forms to be submitted for each year that the exemption is granted, the Assessor risks allowing the exemption for periods for which property is not eligible for the exemption.

Grant the welfare exemption only on property that is held in the name of the organization issued the OCC.

We found instances where the Assessor granted the welfare exemption on property that was not held in the name of the claimant. This included cases when the exemption was granted on real property leased by claimants but owned by for-profit entities, when only the personal property owned by the claimant qualified for the exemption. We also found one instance when the organization claiming the exemption had undergone a name change and obtained a new OCC under the new name. The organization was granted the exemption on property held in the prior name of the organization which no longer agreed to the name on the organization's OCC.

Section 261(a) provides, in part, "...as a prerequisite to the allowance of either the veterans' or welfare exemption with respect to taxes on real property, the interest of the claimant in the property must be of record on the lien date in the office of the recorder of the county in which the

property is located. Failure of the claimant to establish the fact of such recordation to the Assessor constitutes a waiver of the exemption." Additionally, section 254.5 states that the Assessor may not grant the welfare exemption until the claimant has been issued a valid OCC. Therefore, prior to granting the welfare exemption on real property, the Assessor must verify that the claimant owns the real property and holds a valid OCC, which means the claimant's name as stated on the OCC matches the name on the title to the property.

The Assessor's practice of granting the welfare exemption on property that is not held in the name of the organization issued an OCC is contrary to statute and results in the exemption being granted in error.

Properly apply late-filing provisions for welfare exemption claim forms that are not filed timely.

We found that the Assessor does not properly apply late-filing provisions when a welfare exemption claim form is filed after the annual February 15 deadline. In some instances, the Assessor was allowing a full exemption rather than a partial exemption of the property for a claim form filed late. In other instances, the Assessor applied late-filing provisions by applying a negative \$25,000 assessed value exemption to a secured escape tax bill for the property, rather than allowing only a partial exemption for the property.

Section 255(a) provides that annual claim forms for the welfare exemption must be filed with the Assessor between January 1 and 5 p.m. on February 15 of the year for which the exemption is claimed. Section 270 states that 90 percent of any tax, penalty, or interest will be cancelled or refunded if the claim form is filed on or before January 1 of the next calendar year and, for a claim form filed thereafter, 85 percent of any tax, penalty, or interest shall be cancelled or refunded. However, section 270(b) provides that any tax, penalty, or interest may not exceed \$250.

The Assessor's practice of granting a full exemption rather than a partial exemption when a claim form is filed late by some claimants and applying a negative \$25,000 exemption to secured escape tax bills when a claim form is filed late by others is contrary to statutory authority and results in underassessment of properties.

Notify all claimants and include statutorily required language pursuant to section 254.5 when all or a portion of property is denied the welfare exemption.

During our review, we found instances where welfare exemption claimants were not properly notified when all or a portion of their property had been denied the exemption. For example, the Assessor used a *Notice of Proposed Escaped Assessment* to notify claimants of a partial exemption due to late-filed exemption claim. We found the Assessor's notice did not include the statutorily required language that informs claimants of certain rights. We also found instances where letters generated by staff were used to notify claimants that the exemption had been fully denied. Neither the *Notice of Proposed Escaped Assessment* nor the staff-generated letters included the statutorily required language that provides notification to the claimant of certain rights and the staff-generated letters also did not specify the fiscal year for which the exemption or partial exemption was denied.

Section 254.5(c)(2) provides that the Assessor must notify claimants in writing when it is determined that the claimant's property is ineligible for the welfare exemption. Further, Letter To Assessors No. 2014/058, *Effective Administrative Practices – Welfare Exemption*, states that the Assessor must notify the claimant in writing not only when the exemption is denied, but also when any portion of the property is denied the exemption, even if due to the late-filing of the exemption claim form. The notice should be dated and identify the reason for the denial, or partial denial, and the fiscal year to which it pertains. In addition, the notice is required to state that the claimant may seek a refund of property taxes paid by filing a claim for refund with the county board of supervisors, and that if the claim for refund is denied, the claimant may file a refund action in superior court. BOE-267-F, *Welfare or Veterans' Organization Exemption Assessor's Finding on Qualification of Property Use*, may be used by Assessors to meet these notification requirements.

By not properly notifying claimants when all or a portion of their property is denied the welfare exemption, the Assessor is not complying with statute. This practice may result in taxpayers being unaware of important information regarding their claim and of their right to attempt to obtain a refund of property taxes paid.

ASSESSMENT OF REAL PROPERTY

Change in Ownership

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of a change in ownership for property tax purposes. Section 50 requires the Assessor to enter a base year value on the roll for the lien date next succeeding the date of the change in ownership; a property's base year value is its fair market value on the date of the change in ownership.⁹

Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for Assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership interest in a legal entity.

To assist Assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property. On a monthly basis, LEOP transmits to each county Assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported by the person or entity filing information with the BOE, LEOP advises Assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting legal entity changes in control under section 64(c)(1) and changes in ownership under section 64(d). A change in ownership statement must be filed with the BOE within 90 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. Section 482(b) requires the County Assessor to impose a penalty if a person or legal entity required to file a statement under sections 480.1 and 480.2 does not do so within 90 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE. The BOE advises County Assessors of entities that are subject to penalty, so they can impose the applicable penalty to the entity's real property.

⁹ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Change in Ownership*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/cio_general.pdf.

RECOMMENDATION 4: Properly assess penalties in accordance with section 482(b).

We found instances where the Assessor did not apply a penalty when a legal entity failed to file a BOE-100-B or failed to timely file a BOE-100-B, due to a change in control or ownership in accordance with section 482(b).

Section 482(b) states that if a legal entity required to file a statement (BOE-100-B), as described in section 480.1 or 480.2, fails to do so within 90 days from the earlier of (1) the date of the change in control or the change in ownership of the legal entity, or (2) the date of a written request by the BOE, a specific penalty will be applied.

The Assessor's current practice of not applying penalties to all properties owned by legal entities that fail to file or do not file a BOE-100-B timely as required is contrary to statutory authority and results in unequal treatment of taxpayers.

New Construction

Section 70 defines newly constructed property, or new construction, as (1) any addition to real property since the last lien date, or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement constitutes a major rehabilitation of the improvement. Section 71 requires the Assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.¹⁰

The Assessor, chief appraiser, and appraisal staff are responsible for processing new construction assessments, valuing additions to property, determining the appropriate base year, and enrolling changes in value. The Assessor has written procedures, policies, and forms dealing with discovery and assessment of new construction and provides helpful information and claim forms regarding new construction to the public on his website.

In 2005, the Kern County Board of Supervisors enacted an ordinance pursuant to section 155.20 which states that real property with a base year value of \$5,000 or less shall be exempt from property tax.

RECOMMENDATION 5: Value and enroll all assessable low value new construction when part of a larger structure, unless the aggregate base year value of the whole structure is less than \$5,000.

We found the Assessor does not value and enroll low value new construction when part of a larger structure when the permit value is less than \$5,000. The Assessor notes the file as "No

¹⁰ For a detailed description of the scope of our review of this topic, please refer to the document entitled *New Construction*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/newconstruction_general.pdf.

Value Added" and lists the date and general description of the improvement. The Assessor, by policy, does not field inspect the new structure or document property characteristics needed to value the improvement, such as dimensions.

Section 155.20 provides that a county board of supervisors may exempt from property tax real property with a base year value, and personal property with a full value, so low that, if not exempt, the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

However, section 155.20(e)(1) provides that a county board of supervisors does not have the authority to exempt new construction from property taxation unless the new total base year value of the property, including the new construction, is \$10,000 or less.¹¹ Therefore, the total base year value of the larger structure must be included to measure whether the threshold value of greater than \$5,000 has been met, before the low-value new construction is enrolled as a supplemental assessment.

The Assessor must consider the total value of the structural components in determining if the low value ordinance threshold is applicable. The Assessor's practice of not enrolling low-value new construction when the total base year value of the property is greater than \$10,000 is contrary to statute and may result in unequal treatment of taxpayers.

Declines in Value

Section 51 requires the Assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the Assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the Assessor must enroll the FBYV.¹²

RECOMMENDATION 6: Send value notices to property owners and include statutorily required language pursuant to section 619.

Kern County does not send value notices to owners of decline-in-value properties that have been fully or partially restored to FBYVs. Instead, the Assessor uses tax bills and their website to post parcel values to inform taxpayers. The property tax bills include a statement of the assessment appeals filing period. However, the information on the tax bill combined with the information posted on the Assessor's website provides neither an explanation of the process for submitting a written stipulation in place of appearance or testimony to the assessment appeals board (stipulation) nor the FBYV of the property. The Kern County Board of Supervisor's Resolution 2011-098 authorizes the Assessor to provide information described in section 619 on the Assessor's website.

¹¹ In 2005, when the ordinance was adopted by the Kern County Board of Supervisors, the maximum amount of the low-value exemption specific in section 155.20(e)(1) was \$5,000. Section 155.20 was subsequently amended and this amount was increased to \$10,000 effective January 1, 2010.

¹² For a detailed description of the scope of our review of this topic, please refer to the document entitled *Declines in Value*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/declinesinvalue_general.pdf.

Section 619(a) requires the Assessor to inform each assessee of real property on the local secured roll whose property's full value has increased over its full value for the prior year of the higher assessed value as it shall appear on the completed local roll. In addition, sections 619(b) and section 619(c) require the value notice to provide the assessment appeals filing period, an explanation of the stipulation procedure, as described in section 1607, and the FBVY of the property.

A tax bill without any reference to the Assessor's website to obtain additional information regarding stipulation procedures and the FBVY is not beneficial to the taxpayer or the Assessor. In cases where the decline in value properties have been partially or fully restored, providing the FBVY on a notice or the tax bill would reduce taxpayer's inquiries when large adjustments are made. The taxpayer must combine the information on the tax bill and the website in order to have all critical information required by section 619.

Mineral Property

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.¹³

Kern County is the largest petroleum producing county in the state. For the 2018-19 assessment year, Kern County had 4,880 mineral properties with a total assessed value of \$15,275,651,159.¹⁴ This represents just over 17 percent of the total assessed value of Kern County property. Mineral resources are appraised by the Natural Resources Section of the Assessor's office. There are no high temperature geothermal resources located in Kern County.

RECOMMENDATION 7: For purposes of establishing the lien date value of new reserves to add to the base year value of the property, use the value of new reserves based on the values used to enroll supplemental assessments for new wells.

During our review of mineral properties in Kern County, we found that the Assessor's practice is to use the full cost of new wells when enrolling supplemental assessments. The practice was litigated in *Chevron v. County of Kern* and determined by the courts to be an acceptable appraisal practice.¹⁵ However, we found that the Assessor uses the replacement cost new less depreciation (RCNLD) of all wells associated with a mineral property, including the new wells, to calculate the current market value of the new mineral reserves associated with the property that are to be added to the base year value.

¹³ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Mineral Property*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/mineralprop_general.pdf.

¹⁴ Statistics provided by *A Report on Budget, Personnel, and Appeals Data for 2017-2018 and Roll Data for 2018-2019*.

¹⁵ *Chevron USA, Inc. v. County of Kern* (2014), Cal.App.5d F066273

When the Assessor uses the full value of new wells when enrolling supplemental assessments, that same value is not used to determine the current market value allocated to new reserves for the property. The RCNLD of a well that is calculated by the Assessor is based on the ratio of remaining reserves to estimate ultimate recovery of the property. In some cases, the calculated RCNLD for a new well is 80 percent lower than the full cost of the well. Thus, when allocating value to the new reserves, using the RCNLD of wells associated with a property results in significantly more value allocated to the new reserves for the property than would be the case if the full cost of new wells that have already been added to the base year were used instead.

In order to establish the value of a well added to a property, the total value should be divided between two components, the wellbore and reserves. The value of the new wellbore is typically identified by the cost to drill and equip. The value of the reserves is the residual, which is the value derived by subtracting the cost to drill and equip from the total value.

Enrollment of the full value of new well is two-fold. Since the wellbore is physical new construction, the value of the wellbore (which excludes the reserves) is subject to supplemental assessment upon completion. Since the value of the reserves aren't subject to supplemental assessment, the reserve value will be enrolled to the base year value on the following lien date.

Property Tax Rule 468(c)(4)(B) states that the current market value of reserves is calculated by "...segregating the value of wells, casings, and parts thereof, land (other than minerals) and improvements from the property unit value by an allocation based of the value of such properties." Letter To Assessors (LTA) No. 87/40, *Assessment of Dry Hole Wells*, states, "...the determination of the value of new construction of a new well requires the appraisal of the total unit, well and mineral reserve, prior to the allocation of value between the newly constructed well and the proved mineral reserve."

The economic assumption for enrolling the full cost of the new well is that if the value of the well, plus the value of the mineral reserves for the property, were less than the cost to drill, then the well would be canceled. However, since the total value of the new well is greater than the cost, there is still value that can be allocated to reserves. In cases when the total value is less than cost, the Assessor must devise an allocation procedure that takes reserves into account.

The Assessor's use of the depreciated well value to calculate new reserve value results in an over allocation of value to the new reserves. Specifically, part of the value allocated to new reserves has already been added to the base year value of the property when the well was supplementally assessed. Misallocation of value to new reserves can result in overassessments of mineral rights and inaccurate adjustments in subsequent years when accounting for production from the mineral property unit.

ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

Audit Program

County Assessors are required to annually conduct a significant number of audits, as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the Assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with 50 percent of those to be selected from a pool of those taxpayers with the largest assessments.¹⁶

In Kern County, audit responsibility rests on ten auditor-appraisers, of which three are senior auditor-appraisers with supervisory responsibilities. There is also one clerical staff supervisor who provides administrative support. The audit program is overseen by a chief appraiser and a supervising auditor-appraiser.

Audit Quality

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

Rule 192 prescribes the computation establishing minimum required audit production and provides the basis for the audit selection process. According to Letter To Assessors (LTA) No. 2009/049, *Significant Number of Business Property Audits*, the statute requires the Assessor to complete 139 audits per year. Of the 139 audits, half should be conducted from the Assessor's pool of largest taxpayers. The other half should be conducted from taxpayers other than from the pool of the largest taxpayers or all other taxpayers.

We reviewed audits and the audit review process to determine if audits conducted adhered to an acceptable quality standard and ensure taxpayers have been properly assessed. We also reviewed the roll correction process to ensure audits resulting in escape assessment were enrolled for each year for which an escape assessment was identified. The Assessor's notification procedures were also reviewed as part of the Assessment Roll Changes topic.

RECOMMENDATION 8: Perform the minimum required number of audits of professions, trades, and businesses pursuant to section 469.

We found that the Assessor did not complete the required numbers of significant audits for any of the years under the scope of this survey. This includes years for which the Assessor did not

¹⁶ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Audit Program*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/auditprogram_general.pdf.

complete the total required number of audits, the total required number of audits from those taxpayers with the largest assessments of personal property and fixtures, and/or the total required number of audits from all other taxpayers.

The provisions of section 469 require the Kern County Assessor to conduct a minimum of 139 significant audits each year. At least 70 (69 in alternate years) of those audits must be of taxpayers selected from a pool of those taxpayers that have the largest assessments of business personal property and fixtures and at least 69 (70 in alternate years) must be of taxpayers selected from a pool of all other taxpayers owning business personal property and fixtures. Subdivision (b)(1)(B) of section 469 further states that taxpayers in the pool of largest assessments must be audited at least once every four years.¹⁷

Assessors' Handbook Section 506, *Property Tax Audits and Audit Program*, provides that the primary objective of an audit program is to encourage accurate and proper reporting of business property. An effective audit program helps to prevent potential errors and escape assessments by verifying information reported by taxpayers and correcting noncompliant reporting practices. This, in turn, increases the likelihood that future assessments will be accurate due to improved reporting by taxpayers and improved understanding of the business property by the Assessor's office.

By failing to conduct the statutorily required minimum number of audits, the Assessor is not in compliance with section 469 and the possibility that taxable property will escape assessment is increased.

Business Property Statement Program

Section 441 requires each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more to annually file a business property statement (BPS) with the Assessor; other persons must file a BPSs if requested by the Assessor. Property statements form the backbone of the business property assessment program.¹⁸

In Kern County, the Assessor uses appraiser technicians, appraisers, auditor-appraisers, senior auditor-appraisers, and supervising auditor-appraisers for their review of BPSs. We reviewed all major aspects of the Assessor's BPS program, including processing procedures, use of Board-prescribed forms, application of penalties, and record storage and retention.

¹⁷ See Letter To Assessors No. [2009/049](#), *Significant Number of Business Property Audits*.

¹⁸ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Business Property Statement Program*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/businesspropstatement_general.pdf.

RECOMMENDATION 9: Improve the business property statement program by:
(1) accepting only properly signed BPSs, and
(2) correctly applying penalties when BOE-577, *Aircraft Property Statement*, is not returned.

Accept only properly signed BPSs.

We found instances where the Assessor accepted BPSs that were digitally signed, but which had not been filed electronically and authenticated with an approved method.

Sections 441 and 441.5 states that the Assessor may accept electronically filed business property statements, provided that the information is authenticated by methods specified by the Assessor and approved by the BOE.¹⁹ Kern County currently accepts business property statements filed through the SDR/e-SDR systems,²⁰ which have been approved by the BOE for this purpose. However, for those BPSs that are not electronically filed and authenticated through an approved method, the Assessor must obtain an original signature. Therefore, a BPS that has been signed digitally but not submitted electronically does not constitute a valid filing due to the invalid signature.

The Assessor's practice of accepting BPSs that have been improperly signed results in the processing of BPSs for which there is no valid signature. This means that an authorized signer has not properly attested to the authenticity of the facts reported on the statement nor acknowledged any associated penalty for failure to comply with the filing requirements.

Correctly apply penalties when BOE-577, *Aircraft Property Statement*, is not returned.

During our review, we discovered that the Assessor did not apply any penalties to the assessments of taxpayers that did not file 2018 aircraft property statements with the Assessor. The omission was due to an error with the Assessor's computer system that resulted in the Assessor being unable to determine which taxpayers had been requested to return an aircraft property statement and, thus, were subject to a penalty under section 5367. Since the Assessor could not determine which taxpayers were subject to the section 5367 penalty, no penalties were applied, even though some of the affected taxpayers were subject to a penalty under section 463.

Section 5367 provides that any person requested to file an aircraft property statement pursuant to section 5365 must file such statement by the time specified by the Assessor or a penalty of 10 percent of the market value of the unreported aircraft applies. In addition, section 441 requires, in general, that any person who owns taxable personal property with an aggregate cost of \$100,000 or more must file a property statement with the Assessor of the county in which the property is located. Pursuant to section 463, if a taxpayer who is required to file a property statement under section 441 fails to do so, a penalty of 10 percent of the assessed value of the unreported personal property applies. Therefore, although the Assessor was unable to determine

¹⁹ See Letter To Assessors No. 2003/024, *E-Filing Business Property Statements*.

²⁰ SDR (Standard Data Record) and e-SDR are systems owned and operated by the California Assessors' Association that allow taxpayers to file business property statements electronically with participating Assessors' offices.

which taxpayers were subject to a penalty under section 5367, any applicable section 463 penalties should have been applied.

The Assessor's practice of not applying the appropriate penalties when a taxpayer fails to file a property statement is contrary to statute and results in the unequal treatment of taxpayers.

Business Equipment Valuation

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while other valuation factors result from valuation studies. Under this methodology, value for taxation purposes is established by multiplying a property's historical cost by an appropriate valuation factor.²¹

We reviewed the Assessor's valuation procedures, as well as the Assessor's application of percent good and trend factors, to ensure that they were accurate and applied consistently. Samples were analyzed to verify that the Assessor was applying the correct factors to various business and equipment types, estimating supplies when not reported, making appropriate trade-level adjustments when necessary, appropriately assessing fixtures, and correctly assessing mobile construction and agricultural accounts.

RECOMMENDATION 10: Improve the business equipment valuation program by: (1) exempting personal property owned and held by banks and financial corporations, and (2) applying appropriate percent good factors based on the purchase condition of mobile construction equipment.

Exempt personal property owned and held by banks and financial corporations.

During our review of business property accounts we found instances where the Assessor did not exempt the personal property of banks from assessment.

Section 23182 exempts personal property owned by qualifying banks and financial corporations from property taxation, as these entities are subject to a franchise tax that is in lieu of certain taxes and licenses, as specified in section 23182. In order to facilitate the application of this exemption, each year, the BOE issues a County Assessors Only (CAO) letter with an updated list, provided by the Franchise Tax Board, of the banks and financial corporations that are eligible for the exemption attached. In addition to this list, the CAO provides instructions for how Assessors' offices can verify if a bank or financial corporation that is not on the list is eligible for the exemption.

The Assessor's practice of not exempting the personal property of qualifying banks and financial corporations from property taxation is contrary to statute and results in overassessments.

²¹ For a detailed description of the scope of our review of this topic, please refer to the document entitled *Business Equipment Valuation*, available on the BOE's website at http://www.boe.ca.gov/Assessors/pdf/businessequipval_general.pdf.

Apply appropriate percent good factors based on the purchase condition of mobile construction equipment.

We found that the Assessor applies the percent good factors for new equipment to construction mobile equipment, regardless of whether the taxpayer reported that the equipment was purchased "new" or "used," and even if the taxpayer did not report the condition of the equipment at acquisition.

Mobile equipment depreciates at different rates depending on its condition when purchased. In order to ensure the most accurate value indicator possible, appropriate valuation tables should be utilized when sufficient information is available. Each year, the BOE publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581). Table 5 of AH 581 provides construction mobile equipment percent good factors, with separate factors to be used if the equipment was new when acquired, if the equipment was used when acquired, and an average of the new and used factors to be used when the condition of the equipment at acquisition is unknown.

By using new percent good factors on all mobile equipment, regardless of whether the purchase condition at acquisition was used or unknown, the Assessor is failing to follow statute and may be relying on inaccurate indicators of value.

APPENDIX A: STATISTICAL DATA

Table 1: Assessment Roll

The following chart displays pertinent information from the 2018-2019 assessment roll:²²

	PROPERTY TYPE	ENROLLED VALUE
Secured Roll	Land	\$29,483,280,736
	Improvements	\$47,923,087,265
	Fixtures	\$7,605,216,053
	Personal Property	\$1,224,107,458
	Total Secured	\$86,235,691,512
Unsecured Roll	Land	\$112,844,911
	Improvements	\$349,936,610
	Fixtures	\$5,336,775,017
	Personal Property	\$2,067,570,963
	Total Unsecured	\$7,867,127,501
Exemptions²³		(\$2,705,645,932)
	Total Assessment Roll	\$91,397,173,081

Table 2: Change in Assessed Values

The following table summarizes the change in assessed values over recent years:²⁴

YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2018-19	\$91,397,173,081	4.4%	6.5%
2017-18	\$87,533,129,950	6.3%	6.3%
2016-17	\$82,379,299,613	-4.5%	5.5%
2015-16	\$86,235,145,052	-9.2%	6.0%
2014-15	\$95,007,559,589	5.9%	6.2%

²² Statistics provided by BOE-822, *Report of Assessed Values By City*, Kern County, for year 2018.

²³ The value of the Homeowners' Exemption is excluded from the exemptions total.

²⁴ BOE Annual Report Statistical Table 7 – *Assessed Value of County-Assessed Property Subject to General Property Taxes*.

Table 3: Gross Budget and Staffing

The Assessor's budget has decreased from \$12,150,191 in 2014-15 to \$10,288,935 in 2018-19.

As of the date of our survey, the Assessor had 90 budgeted permanent staff. This includes the Assessor, assistant assessor, 4 managers, 36 real property appraisers, 11 business property auditor-appraisers, 4 drafting/mapping technicians, 4 computer programmers/analysts/technicians, 1 technical/professionals, and 28 support staff.²⁵

The following table identifies the Assessor's budget and staffing over recent years:²⁶

BUDGET YEAR	GROSS BUDGET	PERCENT CHANGE	PERMANENT STAFF
2018-19	\$10,288,935	-17.2%	90
2017-18	\$12,425,373	4.5%	97
2016-17	\$11,892,493	2.7%	99
2015-16	\$11,580,017	-4.7%	106
2014-15	\$12,150,191	0.9%	106

Table 4: Assessment Appeals

The following table shows the number of assessment appeals filed in recent years:²⁷

YEAR	ASSESSMENT APPEALS FILED
2018-19	1,511
2017-18	1,833
2016-17	1,679
2015-16	2,210
2014-15	1,677

²⁵ Statistics provided by the BOE's annual *A Report on Budgets, Workloads, and Assessment Appeals Activities*. Staffing information is from the 2018-2019 report.

²⁶ Statistics provided by the BOE's annual *A Report on Budgets, Workloads, and Assessment Appeals Activities*.

²⁷ Statistics provided by the BOE's annual *A Report on Budgets, Workloads, and Assessment Appeals Activities*.

Table 5: Exemptions – Welfare

The following table shows welfare exemption data for recent years:²⁸

YEAR	WELFARE EXEMPTIONS	EXEMPTED VALUE
2018-19	1,887	\$1,918,865,852
2017-18	1,927	\$1,815,329,511
2016-17	1,903	\$1,764,197,819
2015-16	1,762	\$1,663,451,685
2014-15	1,689	\$1,611,211,032

Table 6: Change in Ownership

The following table shows the total number of reappraisals due to changes in ownership processed in recent years:²⁹

YEAR	REAPPRAISABLE TRANSFERS
2018-19	38,617
2017-18	42,385
2016-17	41,693
2015-16	41,307
2014-15	39,739

²⁸ Statistics provided by BOE-802, *Report on Exemptions*.

²⁹ Statistics provided by the BOE's annual *A Report on Budgets, Workloads, and Assessment Appeals Activities*.

Table 7: New Construction

The following table shows the total number of building permits received and the total number of new construction assessments processed in recent years:³⁰

YEAR	TOTAL BUILDING PERMITS RECEIVED	NEW CONSTRUCTION ASSESSMENTS
2018-19	12,858	2,414
2017-18	14,363	2,903
2016-17	15,874	2,598
2015-16	12,709	2,693
2014-15	9,973	2,049

Table 8: Declines In Value

The following table shows the total number of decline-in-value assessments in recent years:³¹

YEAR	DECLINE-IN-VALUE ASSESSMENTS
2018-19	78,439
2017-18	84,768
2016-17	92,330
2015-16	61,929
2014-15	75,674

³⁰ Statistics provided by the BOE's annual *A Report on Budgets, Workloads, and Assessment Appeals Activities*.

³¹ Statistics provided by the BOE's annual *A Report on Budgets, Workloads, and Assessment Appeals Activities*.

Table 9: Audits

The following table shows the minimum number of audits required to be conducted and the total number of audits completed in recent years.³²

MINIMUM NUMBER OF AUDITS REQUIRED³³	2018-19	2017-18	2016-17	2015-16	2014-15
Largest Assessments	70	69	70	69	70
All Other Taxpayers	69	70	69	70	69
Total Required	139	139	139	139	139
NUMBER OF AUDITS COMPLETED					
Total Audits Completed	133	94	123	142	127
Largest Assessments	56	50	56	66	57
Over/(Under) Required	(14)	(19)	(14)	(3)	(13)
All Other Taxpayers	77	44	67	76	70
Over/(Under) Required	8	(26)	(2)	6	1
CCCASE AUDITS					
Prepared for other county Assessors	0	0	1	0	15

³² Statistics provided by the BOE's annual *A Report on Budgets, Workloads, and Assessment Appeals Activities*.

³³ See LTA No. 2009/049, *Significant Number of Business Property Audits*, for the minimum number of annual audits required pursuant to the provisions of section 469.

APPENDIX B: PRIOR SURVEY RECOMMENDATIONS, RESPONSES, AND CURRENT STATUS

Following are the recommendations included in our September 2015 Assessment Practices Survey Report and the Assessor's response to each recommendation. After each recommendation, we report the current status of the Assessor's effort to implement the recommendation, as noted during our survey fieldwork.

Disaster Relief

RECOMMENDATION 1: Improve the disaster relief program by requesting the board of supervisors to revise the disaster relief ordinance to conform to section 170.

Original Findings:

In our previous survey, we recommended the Assessor request the board of supervisors to revise the disaster relief ordinance to conform to section 170. Additionally, we recommended revising the Assessor's form *Application for Reassessment: Property Damaged or Destroyed by Misfortune or Calamity* to conform with section 170(b). We found that the Assessor has partially implemented the recommendations by revising the form to be consistent with the provisions of section 170(b). However, the county's current disaster relief ordinance remains outdated and does not conform to current provisions of section 170.

Assessor's Original Response:

The Assessor concurs with the recommendation. The revision to Kern County's disaster relief ordinance has been under review for about six months and should be completed shortly.

Current Status:

The Assessor has implemented the new disaster relief ordinance revisions. The board of supervisors has revised their disaster relief ordinance to be in accordance with section 170. The Assessor's form, *Application for Reassessment of Property Damaged by Misfortune or Calamity*, has been updated to be in conformance with section 170(b).

Change in Ownership

RECOMMENDATION 2: Apply section 482(a) penalties for failure to file completed *Change in Ownership Statements* (COS) timely.

Original Findings:

We found instances where the Assessor has failed to assess the mandatory section 482(a) penalty when a COS is not timely returned within the specified 90 days of written request mailed by the Assessor.

Assessor's Original Response:

The Assessor concurs with the recommendation. Revisions have been made to the Assessor's systems, KIPS, to track the COS processing and properly apply the penalty.

Current Status:

The Assessor has implemented this recommendation. We reviewed instances when a COS was not timely returned within the specified 90 days and found that the Assessor correctly applies penalties in accordance with section 482(a).

RECOMMENDATION 3: Improve the LEOP program by: (1) reassessing all properties owned by the legal entity undergoing a change in control or ownership, and (2) properly implementing the penalty process in accordance with section 482(b).

(1) Reassess all properties owned by the legal entity undergoing a change in control or ownership.

Original Findings:

We found that the Assessor does not reassess all properties determined to have undergone a change in control as notified by the BOE through the LEOP program.

Assessor's Original Response:

The Assessor concurs with the recommendation. Revisions have been made to the Assessor's systems, KIPS, to track the LEOP processing and properly apply the penalty.

Current Status:

The Assessor has implemented this recommendation. We reviewed a number of properties owned by legal entities having undergone a change in control and found that they were all reassessed.

(2) Properly implement the penalty process in accordance with section 482(b).

Original Findings:

We found instances where the Assessor did not apply penalties when a legal entity failed to timely file BOE-100-B due to a change in control or ownership in accordance with section 482(b).

Assessor's Original Response:

The Assessor concurs with the recommendation. Revisions have been made to the Assessor's systems, KIPS, to track the LEOP processing and properly apply the penalty

Current Status:

The Assessor has not implemented this recommendation. Refer to the Change in Ownership topic for the current recommendation.

New Construction

RECOMMENDATION 4: Improve the new construction program by valuing CIP at its fair market value.

Original Findings:

We found several instances in which the Assessor's office valued CIP using the permit value instead of using one of the three accepted approaches to value when determining the fair market value to be enrolled.

Assessor's Original Response:

We agree with this recommendation and have updated our practice in the valuation of construction in progress. In the past, the office often used permit value as an informal estimate of construction cost in the valuation of lien date CIP. We have eliminated this expedient, and now base CIP estimates on one or more of the three recognized approaches to value.

Current Status:

The Assessor has implemented this recommendation. Samples of properties with new construction in progress (CIP) indicate the CIP is valued as a percentage of the cost, income, or market value for the property.

Taxable Possessory Interests

RECOMMENDATION 5: Improve the taxable possessory interest program by assessing all taxable possessory interests.

Original Findings:

In December 2005, the Kern County Board of Supervisors adopted an ordinance implementing a portion of section 155.20. The ordinance authorizes the exemption of any taxable possessory interest located within a publicly owned fairground facility or publicly owned convention center with a full value of \$40,000 or less. According to the Assessor, the low-value property exemption eliminates the need to monitor these facilities for potential taxable possessory interests.

Assessor's Original Response:

The Assessor concurs with the recommendation. Our office has taken several steps in an attempt to assess all possessory interests. We have gathered information on properties not previously valued and added those possessory interests to the assessment roll. We have continued to send letters annually to all of the agencies with possessory interests and are working to improve that process to more effectively obtain information. We will be training additional staff so that more time can be dedicated to the valuation of possessory interests. We are also working on improving the organization of all survey and lease information so they may be easily reviewed.

Current Status:

The Assessor has implemented this recommendation. Our review of taxable possessory interest records found that the Assessor is now monitoring and assessing possessory interests above the \$40,000 low-value exemption ordinance at both the fairgrounds and convention center.

Mineral Property

RECOMMENDATION 6: Improve the petroleum assessment program by allocating a base year value to each property item and removing value for property items no longer located on the appraisal unit.

Original Findings:

We found that the Assessor is not consistently removing the adjusted base year value of improvements no longer located on the appraisal unit. According to the Assessor, this is in large part due to the difficulty of identifying the assets removed and the factored base year value of those assets.

Assessor's Original Response:

We agree with this recommendation. We have worked with the property owners and the Petroleum Standards Advisory Committee to resolve this issue. We have endeavored to develop consistent methodologies in properly assessing the removed equipment

- *We will increase our efforts in attempting to receive data from the taxpayer to identify removed items from our equipment lists.*
- *The equipment lists will be improved to better describe new and existing equipment.*

Current Status:

The Assessor has implemented this recommendation. A review of the Assessor's records indicates that this recommendation has been implemented by the Assessor in the adjustments made to the base year value of the appraisal units.

Audit Program

RECOMMENDATION 7: Improve the audit program by performing the minimum number of audits of professions, trades, and businesses pursuant to section 469.

Original Findings:

We found that the Assessor did not conduct the minimum number of audits required under the provisions of section 469 for three out of the past four years.

Assessor's Original Response:

We concur with the recommendation. Over the last few years the Kern County Assessor's Office has been able to steadily increase the number of staff assigned to the Audit Section. This measure will insure that the minimum number of mandatory audits will be completed.

Current Status:

The Assessor has not implemented this recommendation. Refer to the Audit Program topic for the current recommendation.

Business Equipment Valuation

RECOMMENDATION 8: Improve the business equipment valuation program by exempting personal property owned and held by banks and financial corporations.

Original Findings:

During our review of business property accounts we found instances where the Assessor has not excluded the personal property of banks from assessment.

Assessor's Original Response:

The Kern County Assessor's Office respectfully disagrees with the findings and recommendations regarding bank owned personal property. The three examples of bank owned property cited by the BOE were misreported by the property owner on their form 571. The Kern County Assessor's Office makes every effort to comply with section 23182 by exempting personal property owned and held by banks and financial corporations from our assessments.

Current Status:

The Assessor has not implemented this recommendation. Refer to the Business Equipment Valuation topic for the current recommendation.

Manufactured Homes

RECOMMENDATION 9: Improve the manufactured homes program by: (1) excluding site value when determining the current market value to be enrolled, and (2) documenting that manufactured homes enrolled as improvements meet the requirements of Health and Safety Code section 18551.

(1) Exclude site value when determining the current market value to be enrolled.

Original Findings:

We found that the Assessor typically values a recently purchased manufactured home on rented or leased land by enrolling the Department of Housing and Community Development (HCD) reported purchase price, supported by comparable sales, without making an adjustment to the subject property to exclude any site value that may be included in the purchase price. In addition, no adjustment is made to the comparable sales for site value. The Assessor also used these comparable sales when valuing manufactured homes for declines in value.

Assessor's Original Response:

While the Assessor recognizes the need to remove site value from sales price, following the method of valuation prescribed in AH 531 leaves cost as the sole method for valuing manufactured homes when the sales price exceeds cost – even if the difference is marginal or inconsistent. Cost is an imperfect and often poor method for valuing aging improvements, and reliance on cost alone could lead to numerous unwarranted reductions in Kern County, where prized or premium locations are unusual, rent restrictions are non-existent, and sale price to cost comparison reveals no overvaluation on average.

We will continue to compare reported sales price to cost, adjusting for site value only upon the discovery of consistent evidence of sales price exceeding cost in any given park or location.

Current Status:

The Assessor has implemented this recommendation. Our review of manufactured home records found that the Assessor properly analyzes and compares sale price listings issued by the Department of Housing and Community Development (HCD) with values from the National Automobile Dealers Association (NADA) and comparable sales in order to exclude the site value from the fair market value of the property.

(2) Document that manufactured homes enrolled as improvements meet the requirements of Health and Safety Code section 18551.**Original Findings:**

For manufactured homes on permanent foundations classified and enrolled as improvements, we found that some property records reviewed did not include a copy of a recorded HCD form 433(A).

Assessor's Original Response:

We concur. Compliance with Health and Safety Code section 18551 has not been universally understood by our appraisal staff. Entry level training now includes instruction that form 433(A) must be included with a manufactured home record before transferring the manufactured home from license to local property tax or changing the use code to indicate the existence of a permanent foundation.

Current Status:

The Assessor has implemented this recommendation. For manufactured homes on permanent foundations classified and enrolled as improvements, we found every property record reviewed included a copy of a recorded HCD form 433(A).

APPENDIX C: COUNTY-ASSESSED PROPERTIES DIVISION SURVEY GROUP

Kern County

Deputy Director

David Yeung

Survey Program Manager:

Diane Yasui

Manager, Property Tax

Survey Team Supervisor:

David Dodson

Supervisor, Property Tax

Survey Quality Control:

Michael Dean Saunders

Senior Specialist Property Appraiser

Survey Team Leader:

Tina Krause

Senior Specialist Property Appraiser

Survey Team:

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Isaac Cruz

Senior Specialist Property Auditor-Appraiser

Nancy Le

Associate Property Auditor-Appraiser

Michael Ash

Associate Property Appraiser

Lee Coleman

Associate Property Appraiser

Jennifer Prince

Associate Property Appraiser

Dany Lunetta

Associate Governmental Program Analyst

APPENDIX D: RELEVANT STATUTES AND REGULATIONS

Reference	Description
<i>Government Code</i>	
§15640	Survey by board of county assessment procedures.
§15641	Audit of records; appraisal data not public.
§15642	Research by board employees.
§15643	When surveys to be made.
§15644	Recommendations by board.
§15645	Survey report; final survey report; Assessor's report.
§15646	Copies of final survey reports to be filed with local officials.
<i>Revenue and Taxation Code</i>	
§75.60	Allocation for administration.
<i>Title 18, California Code of Regulations</i>	
Rule 371	Significant assessment problems.

ASSESSOR'S RESPONSE TO BOE'S FINDINGS

Section 15645 of the Government Code provides that the Assessor may file with the BOE a response to the findings and recommendations in the survey report. The Kern County Assessor's response begins on the next page.

Section 15645 also allows the BOE to include in the report comments regarding the Assessor's response. Our comments follow the Assessor's response.



Kern County Assessor-Recorder

Jon Lifquist

Assistant Assessor

Laura Avila

Assistant Recorder

Brian Pace

Mr. David Yeung
Chief, County-Assessed Properties Division
California State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0064

RE: Assessor Response to Recommendations

Dear Mr. Yeung,

Pursuant to Section 15645 of the California Government Code, please find attached the Kern County Assessor's response to recommendations made by the State Board of Equalization in the Kern County Assessment Practices Survey dated May 2020.

As always, the BOE survey team conducted this most recent survey with professionalism, showing respect and courtesy to our staff. We appreciate their constructive comments and recommendations for improving our office practices and procedures.

I would also like to recognize and thank the staff of the Kern County Assessor's Office for their dedication, hard work and commitment to excellence in serving the property and business owners of Kern County. I am particularly grateful for the effort that staff put into addressing multiple survey issues during the uniquely stressful months of May-July 2020.

Do not hesitate to call me at (661) 868-3315 or contact me by email if you should have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon Lifquist", with a long horizontal flourish extending to the right.

JON LIFQUIST

Kern County Assessor-Recorder

RECOMMENDATION 1:

Update the procedures manual to conform to changes in section 170(b)

The Assessor has updated all relevant department procedures manuals to conform to R&T Code § 170(b).

RECOMMENDATION 2:

Improve the assessment roll change program by: (1) correctly notating penalties on the assessment roll as required by Property Tax Rule 261, and (2) developing procedures that require an independent verification of assessment roll changes entered into the system

1. We concur with part one the BOE's recommendation to correctly notate penalties on the assessment roll as required by Property Tax Rule 261. Changes will be made to the local assessment roll to separately reflect the amount of the penalty imposed per R&T Code § 463.
2. We respectfully disagree with part two of this recommendation. We do have a procedure in place to independently review changes to the assessment roll weekly. Each week, a report is automatically generated by our system listing changes in value of more than 30% on properties with an assessed value of less than \$1 million and .1% change in value for properties with an assessed value of \$1 million or more. All corrections are notated separately on this report to be able to evaluate their correctness.

RECOMMENDATION 3:

Improve the administration of the exemption program by: (1) requiring claimants to submit a separate welfare exemption claim form for each year the welfare exemption is claimed, (2) granting the welfare exemption only on property that is held in the name of the organization issued the OCC, (3) properly applying late-filing provisions for welfare exemption claim forms that are not filed timely, and by (4) notifying all claimants and include statutorily required language pursuant to section 254.5 when all or a portion of property is denied the welfare exemption

We agree with Recommendation 3 and have made appropriate changes to our process to address all aspects of this recommendation.

RECOMMENDATION 4:

Properly assess penalties in accordance with section 482(b)

We concur and are in the process of implementing Recommendation 4.

RECOMMENDATION 5:

Value and enroll all assessable low value new construction when part of a larger structure unless the aggregate base year value of the whole structure is less than \$5,000

The summarization references Section 155.20 that allows a county board of supervisors to exempt from property tax real property in which the total new base year value is \$10,000 or less. The contention is that the assessor's practice of not enrolling low-value new construction is contrary to statute. The examples cited are all residential properties in which the new construction was a patio. The appraiser indicated there was "No Value Added."

Assessors' Handbook Section 410, Assessment of Newly Constructed Property, states that, when valuing new construction, the appraiser uses one or more of the three approaches to value.¹ Based on Rule 4, the comparative sales approach to value is the preferred method when adequate market data are available. The handbook describes how to value new construction by this method:

To value newly constructed property by this method, the property is appraised with and without the new construction as of the date of completion, using the selling prices of comparable properties. The difference between the appraised values is an indicator of the value of the new construction.¹

The assessor's practice of indicating "No Value Added" to certain new construction events stems from a lack of evidence of market value increase for what might be termed marginal new construction and is unrelated to the low-value property tax exemption.

RECOMMENDATION 6:

Send value notices to property owners and include statutorily required language pursuant to section 619

We respectfully disagree with this recommendation. All property owners are notified of their values annually on the Assessor's website in accordance with R&T Code § 619. If the property is subject to RTC section 51, the reduced value (current assessed value) and the factored base year value are both listed on the site. Additionally, language addressing the stipulation process, in accordance with R&T Code § 1607, can be found on the Assessor's website below the current assessed value. The Assessor's website address, found on the back of the property tax bill, enables taxpayers to access the most current assessment information.

The Kern County 2018-2019 annual tax bill, the billing year at the time of the BOE survey, referenced the wrong website address for the Assessor's office. However, prior and subsequent to the 2018-2019 bill, the website information was correct. We agree that the incorrect reference on the 2018-2019 tax bill may have caused confusion for taxpayers, and that taxpayers may therefore have lacked access to pertinent and perhaps vital information. The error, made by the Treasurer-Tax Collector in the 2018-2019 billing cycle, is not the responsibility of the Assessor.

RECOMMENDATION 7:

For purposes of establishing the lien date value of new reserves to add to the base year value of the property. Use the value of new reserves based on the values used to enroll supplemental assessments for new wells.

The Kern County Assessor's Office respectfully disagrees with the findings and recommendations regarding mineral property. As admitted in the Recommendation, *Chevron USA v County of Kern (2014) 230 Cal.App.4th 1315 ("Chevron")* upheld the use of the cost approach as a valid method in valuing new wells. In addition to this guidance, Assessor's Handbook 566 gives the following instructions for the lien date valuation of wells: Page 7-1 provides that wells and other equipment must be "*listed, appraised, and assessed separately from the mineral rights*", and although wells are classified as land, they are subject to depreciation. Page 7-2 further states "*Common practice for the appraisal of the well and production equipment is to tie the value directly to its estimated utility to extract petroleum. A remaining reserve factor is determined by taking the estimate of proved reserves and dividing by the total ultimate recovery.*" In assessing new wells at reported cost as of the date of completion the Assessor is following the practice authorized by the 5th District Court of Appeals in the Chevron decision, and in using the reserve factor to depreciate the wells' offset value to determine the value of reserves, the Assessor is also following the BOE's guidance in AH566.

It is unclear whether the Recommendation is addressing lien date assessments or supplemental assessments. Presumably, it is addressing a supplemental assessment because, by the lien date, the well is no longer considered a "new well." If addressing the Assessor's methods on supplemental assessment, the Recommendation ignores the fact that reserves cannot be supplementally assessed unless they are a new discovery. In Recommendation number 7, the SBE states, "The RCNLD of a new well that is calculated by the assessor is based on the remaining reserves of the property unit." This is patently false.

Revenue & Taxation Code Section 75.10 provides that only "actual physical new construction" is subject to supplemental assessment. (R&T Code, § 75.10(a)) That section goes on to define "actual physical new construction" as only those mineral rights which "include[s] the discovery of previously unknown reserves of oil or gas." R&T Code, § 75.10(c). Thus, the remaining reserves never come into consideration at the time of supplemental assessment.

If Recommendation 7 is addressing a subsequent lien date analysis, the Board's suggestion that "*The Assessor's use of the depreciated well value to calculate new reserve value, results in an over-allocation of the value to the new reserves. Specifically, part of the value allocated to new reserves has already been added to the base year value of the property when the well was supplementally assessed*" is erroneous on two levels:

First, a well placed into service on June 30th of the prior year will have been in production for six months prior to the following lien date and would no longer be a new well. The value of a new well and the value of a well that has produced reserves for six months would not typically be equal and some

depreciation will exist. The Board admits to having no way of determining what specific amount of depreciation the Assessor is allocating to the well on lien date. To assert that the value of the well on lien date would be the same as the new well at the time of construction would be incorrect.

Second, the lien date current market allocation includes all wells on the property and is a combination of newer and older wells. The Board states: *“In some cases, the RCNLD of a new well is 80 percent lower than the full cost of the well.”* This **assumption** is incorrect: The RCNLD number also includes wells that are much older than the newer wells in question and may contribute to the overall reserve factor to a much lesser degree than the newer wells. The Assessor does not contend that each well contributes equally to the RCNLD but only that the RCNLD represents the total value of all wells on the property. The Board admits to having no evidence to indicate what percentage the new wells contribute to the overall reserve factor and simply assumes that all wells contribute equally.

The Board’s reliance on Letter to the Assessor (“LTA”) 87/40, Assessment of Dry Hole Wells, is erroneous as applied to Kern County. The LTA is specifically applicable only to dry hole wells. As the court noted in Chevron, the Assessor excluded dry holes from supplemental assessment.

*“ [Appraiser] Hammond's normal practice is to make adjustments if it is reported to him that the actual cost to drill the well exceeded the anticipated cost. This has happened in the past with Chevron, where Chevron provided him with evidence that the lower portion of a very expensive well was lost; in that case, Hammond apportioned the cost and **assumed the lower part of the well was a dry hole, which Kern does not assess.** [Emphasis added] (Chevron at 1339)*

As Recommendation 7 addresses all wells, not just dry holes, citing to LTA 87/40 is inappropriate at best. Further, although LTA was issued in 1987, it does not consider the restriction imposed by Section 75.10, whose last significant amendment was made in 1985. That restriction removes reserves from supplemental assessment unless those reserves are newly discovered. Unless LTA 87/40 was written in response to a question about a dry hole in a newly discovered field, it is legally incorrect given Section 75.10. Nor is the LTA applicable to lien date valuations.

Finally, the Board states: *“In cases when the total value (of a well) is less than cost, the Assessor must devise an allocation procedure that takes reserves into account.”* The only known method for accomplishing this is to value each well individually. Requiring the Assessor to value newer wells individually suggests that all wells on the property should be valued individually in order to arrive at a correct value. This issue was also addressed in the *Chevron v. County of Kern* decision which states: *“Finally, as Kern points out, the application of Chevron’s proposed method of valuation would be virtually impossible. Under that method, the assessor would have to compare the value of the relevant oil field at the lien date with its value after each well was completed to determine whether each well added value in some way and, if so, how much, which Kern asserts would involve individual valuation determination of hundreds, if not thousands, of wells each year. Chevron’s counsel admitted before the Board that Chevron’s expert had not appraised the whole unit, stating: “No one has done what I think would be a Herculean task. Given the number of wells we have, in order to demonstrate if there were a value added*

by this process, and in order to demonstrate what that value was, you would have had to have hundreds of cash flows done, because you'd have to do a cash flow after each one of these wells was drilled. And it would have been impossible to do." Chevron's counsel further admitted that *"it would have been virtually impossible for either Mr. Miller or Mr. Bertholf to have run a cash flow for each of the wells."* Practical considerations may have an impact on the assessor's choice of valuation method. For example, in *Bret Harte Inn, Inc. v. City & County of San Francisco* (1976) 16 Cal.3d 14, our Supreme Court considered the valuation of "merchandise, equipment and cash located in [a] hotel." (Id. at p. 18.) The Court noted that *"[s]ince it is impracticable to attribute specific income to the type of property here in question the income method does not easily lend itself to the appraisal here before us. Out of substantial necessity, then, the assessor in this case resorted to the so-called cost method, under which the assessor subtracts depreciation from a figure reflecting cost."* (Id. At p. 24, fn. omitted.) Similarly, Flavin states that assessors use the cost method to value newly constructed property for supplemental assessment purposes, even where the property is income-producing, for *"practical reasons."* (2 Flavin, Proposition 13 impact § 17:30.) The same *"practical reasons"* require adoption of the cost method in this case. The individual valuation of wells is not practical and an unreasonable burden on the Assessor given available staff, time constraints imposed by State Board form filing deadlines and roll close dates. **For the Board to require the Assessor to "devise" a method of allocation which the Board itself cannot articulate would put an unreasonable burden on the Assessor and is inappropriate.**

For these reasons, Recommendation number 7 is legally incorrect, factually incorrect, and inappropriate. This recommendation should be removed from the Kern County Assessor's Assessment Practices Survey.

RECOMMENDATION 8:

Perform the minimum required number of audits of professions, trades, and businesses pursuant to section 469.

We concur with the BOE's recommendation to perform the minimum required number of audits of professions, trades and businesses pursuant to Section 469. Over the last few years, the Kern County Assessor's Office has had a significant turnover in the Auditing staff. As new staff is trained and gains the experience to handle the more complex audits this will help to insure that the minimum number of mandatory audits will be completed.

RECOMMENDATION 9:

Improve the business property statement program by: (1) accepting only properly signed business property statements; and (2) correctly applying penal ties when BOE-577, Aircraft Property Statement, is not returned

1. The Kern County Assessor's Office respectively disagrees with the BOE's assumption that it is the Assessor's practice is to accept improperly signed business property statements for which there is no valid signature. By accepting business property statements that are signed through DocuSign or accepting business property statements in which the signature is a stamp of an

original signature in no way constitutes and invalid filing nor do they meet the definition of a digital signature. The definition of a signature is as follows:

A mark or sign made by an individual on an instrument or document to signify knowledge, approval, acceptance, or obligation.

The term signature is generally understood to mean the signing of a written document with one's own hand. However, it is not critical that a signature actually be written by hand for it to be legally valid. It may, for example, be typewritten, engraved, or stamped. The purpose of a signature is to authenticate a writing, or provide notice of its source, and to bind the individual signing the writing by the provisions contained in the document.

The Kern County Assessor's Office makes every effort to comply with Sections 441 and 441.5 of the Revenue and Taxation Code by only accepting properly signed business property statements.

Sections 441 and 441.5 only state that a property statement must be signed. The words must obtain an original/wet signature do not exist in these code sections. Sections 441 and 441.5 state:

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

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. (Amended by Stats. 2009, Ch. 204, Sec. 4. (SB 822) Effective January 1, 2010.)

In addition, Government Code Section 16.5 gives the Assessor the authority to accept digital signatures instead of manual signatures. It states:

A digital signature may be optionally used instead of a manual signature in any written communication with a public entity and is acceptable provided that it is unique to the person using it, capable of verification, under the user's sole control, linked to data so that the signature will be invalidated should the data change, and conforms to the secretary of State regulations.

Therefore, a digital/stamped signature is a valid signature. Furthermore, by signing the business property statement with a digital/stamped signature, in no way can the BOE assume that an authorized signer has not properly attested to the authenticity of the facts reported on the statement nor acknowledged any associated penalty for failure to comply with the filings.

2. We concur with the BOE's recommendation to apply penalties when BOE-577, Aircraft Property Statements are not returned timely. Our office experienced a problem unique to the 2018 lien date, wherein we were unable to determine if a particular aircraft property statement had been mailed out. As a result, no late penalties were applied some aircraft property statements for 2018 tax year. The issue that has caused this error has been corrected.

RECOMMENDATION 10:

Improve the business equipment valuation program by (1) exempting personal property owned and held by banks and financial corporations, and (2) applying appropriate percent good factors based on the purchase condition of mobile construction equipment

1. The Kern County Assessor's Office respectively disagrees with the BOE's findings and recommendations regarding bank owned personal property. It is not the policy or practice of Kern County to value personal property owned and held by banks and financial corporations. The examples of bank owned property cited by the BOE were misreported by the property owner on their 571L. Our office makes every effort to comply with Section 23182 by exempting personal property owned and held by banks and financial corporations from our assessments.
2. The Kern County Assessor's Office concurs with the BOE's recommendation that when the purchase condition of the mobile construction equipment is unknown, an average of new and used factors are to be used.

BOE'S COMMENTS TO ASSESSOR'S RESPONSE

RECOMMENDATION 5: Value and enroll all assessable low value new construction when part of a larger structure unless the aggregate base year value of the whole structure is less than \$5,000.

Assessor's Response to Recommendation 5:

The summarization references Section 155.20 that allows a county board of supervisors to exempt from property tax real property in which the total new base year value is \$10,000 or less. The contention is that the Assessor's practice of not enrolling low-value new construction is contrary to statute. The examples cited are all residential properties in which the new construction was a patio. The appraiser indicated there was "No Value Added."

Assessors' Handbook Section 410, Assessment of Newly Constructed Property, states that, when valuing new construction, the appraiser uses one or more of the three approaches to value.¹ Based on Rule 4, the comparative sales approach to value is the preferred method when adequate market data are available. The handbook describes how to value new construction by this method:

To value newly constructed property by this method, the property is appraised with and without the new construction as of the date of completion, using the selling prices of comparable properties. The difference between the appraised values is an indicator of the value of the new construction.¹

The Assessor's practice of indicating "No Value Added" to certain new construction events stems from a lack of evidence of market value increase for what might be termed marginal new construction and is unrelated to the low-value property tax exemption.

BOE's Comments to Assessor's Response to Recommendation 5:

In order for an appraiser to determine that new construction, such as a patio cover, adds no value to a property, the appraiser would need market evidence showing as such. This would require use of the market approach to make a compared sales analysis to support the appraiser's claim of no value added. In this case, a comparison of sales with and without a patio cover would show whether properties would sell for the same price, given everything else remaining equal. BOE staff found no evidence of such a comparison in the appraisal records or a general study to support such a conclusion.

RECOMMENDATION 9, Part 1: Accept only properly signed business property statements.

Assessor's Response To Recommendation 9, Part 1:

The Kern County Assessor's Office respectively disagrees with the BOE's assumption that it is the Assessor's practice is to accept improperly signed business property statements for which there is no valid signature. By accepting business property statements that are signed through

DocuSign or accepting business property statements in which the signature is a stamp of an original signature in no way constitutes and invalid filing nor do they meet the definition of a digital signature. The definition of a signature is as follows:

A mark or sign made by an individual on an instrument or document to signify knowledge, approval, acceptance, or obligation.

The term signature is generally understood to mean the signing of a written document with one's own hand. However, it is not critical that a signature actually be written by hand for it to be legally valid. It may, for example, be typewritten, engraved, or stamped. The purpose of a signature is to authenticate a writing, or provide notice of its source, and to bind the individual signing the writing by the provisions contained in the document.

The Kern County Assessor's Office makes every effort to comply with Sections 441 and 441.5 of the Revenue and Taxation Code by only accepting properly signed business property statements.

Sections 441 and 441.5 only state that a property statement must be signed. The words must obtain an original/wet signature do not exist in these code sections. Sections 441 and 441.5 state:

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

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. (Amended by Stats. 2009, Ch. 204, Sec. 4. (SB 822) Effective January 1, 2010.)

In addition, Government Code Section 16.5 gives the Assessor the authority to accept digital signatures instead of manual signatures. It states:

A digital signature may be optionally used instead of a manual signature in any written communication with a public entity and is acceptable provided that it is unique to the person using it, capable of verification, under the user's sole control, linked to data so that the signature will be invalidated should the data change, and conforms to the secretary of State regulations.

Therefore, a digital/stamped signature is a valid signature. Furthermore, by signing the business property statement with a digital/stamped signature, in no way can the BOE assume that an authorized signer has not properly attested to the authenticity of the facts reported on the statement nor acknowledged any associated penalty for failure to comply with the filings.

BOE's Comments to Assessor's Response to Recommendation 9, Part 1:

Section 441(a) provides that each person owning taxable personal property (other than a manufactured home) 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.

Section 441(k) states the following:

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. [*Emphasis added.*]

Therefore, as required under the provisions of section 441(k), property statements filed through the use of electronic media must be authenticated by methods specified by the Assessor and approved by the State Board of Equalization (BOE). Thus, if an Assessor chooses to accept electronically filed business property statements, the Assessor must submit procedures to authenticate those property statements to the BOE for approval. To date, we have not received a request for approval of the Assessor's procedures.

For further guidance, please refer to LTA No. 2020/022, dated May 4, 2020.