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STATE OF CALIFORNIA

# STATE BOARD OF EQUALIZATION

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No. 84/38

March 30, 1984

TO COUNTY ASSESSORS, COUNTY COUNSELS,  
ASSESSMENT APPEALS BOARDS, AND  
COUNTY BOARDS OF EQUALIZATION

## ASSESSMENT APPEALS AFTER AUDIT

Sections 469 and 1605 of the Revenue and Taxation Code provide in part that if an audit conducted pursuant to Section 469 discloses property subject to an escape assessment, then all the property of the taxpayer at that location is subject to equalization for the year of such escape (unless the property was previously equalized for that year). The legislative intent of this provision was to afford the taxpayer a similar right to "open up" past assessments as the assessor has.

Frequently, an assessor's audit discloses both under- and overassessments. Section 533 provides in such cases that the appropriate tax liabilities and refunds shall be offset, so the resulting tax bill or refund is a net figure. If the refund is greater than or equal to the escape, then no "escape assessment" is enrolled, and there is a question as to whether the taxpayer is entitled to an equalization hearing under Sections 469 and 1605.

The Board's legal staff has reviewed this question and determined that the taxpayer is entitled to an equalization hearing under the above circumstance.

The critical phrase (in the third paragraph of Section 469, and also in the fourth paragraph of Section 1605) is "property subject to an escape assessment". That language does not specify that an escape assessment must be enrolled, only that the audit disclosed property that should have been assessed but was not. It would be a tortured reading of the law to conclude that property is not "subject to an escape assessment" merely because some other error offset the escape.

Therefore, whenever escaped property is discovered as a result of an assessor's audit, the taxpayer is entitled to equalization on the entire property for the year of such escape, regardless of whether the assessor actually enrolls an escape assessment. The only limitation on the taxpayer's right to equalization is the portion of any assessment which was previously the subject of an equalization hearing.

### Time for Filing an Assessment Appeal

Section 1605 provides that an application for equalization of an assessment made outside the regular assessment period must be filed no later than 60 days after the assessee was notified of the assessment. Receipt of a tax bill suffices as notice for an escape assessment.

In a situation where a Section 469 audit disclosed escaped property but the escape was offset by an overassessment, it is necessary to provide a formal notice to the taxpayer for purposes of the 60-day filing period. Since the Revenue and Taxation Code does not describe the requirements for a notice in this situation, we offer the following suggestions for the minimum contents of the notice.


1. Exact name of taxpayer (as shown on the assessment roll).
2. Mailing address (current mailing address shown in assessor's records).
3. Situs of the property (address and parcel number).
4. For each assessment year the full value, exemptions if any, penalties if any, and taxable value of property which:
  - a) escaped assessment
  - b) was overassessed.
5. Classification (land, improvements, or personal property) of property which:
  - a) escaped assessment
  - b) was overassessed.
6. Applicable Revenue and Taxation Code sections to describe the circumstances of the escape and overassessment, e.g.,
  - a) Section 531.4, escaped business property, inaccurate property statement, Section 506 interest applicable to escape.
  - b) Section 4831, assessor's clerical error, Section 5151 interest applicable to refund.
7. Notice that the taxpayer is entitled to apply for a cancellation or refund of taxes on the net overassessment (if any).
8. Notice that the taxpayer is entitled to equalization of the entire property (if not previously equalized) for the year(s) for which escapes were discovered by the audit.
9. Notice of the time period for filing such an assessment appeal, and the place where such appeal may be filed. Since Section 1605 specifies the taxpayer has 60 days after receipt of the notice, the final date for filing would probably be 62 or 63 days after the assessor mails the notice.
10. A statement that the notice is the official notice of assessment specified by Section 1605 of the Revenue and Taxation Code.

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Upon conclusion of an audit, it is common practice to mail the taxpayer a letter stating the results of the audit. Where an escape assessment or some other potentially controversial action is involved, the taxpayer is usually given an opportunity to discuss the audit results prior to enrollment. This letter serves a useful purpose, but unless it contains the type of information suggested above, it does not constitute a notice for purposes of the 60-day filing period. The filing period begins only when the taxpayer receives a tax bill or a formal notice with the type of information suggested above.

Please contact Charlie Knudsen of this division if you have questions or comments on this letter.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:wpc  
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