

# MODOC COUNTY ASSESSMENT PRACTICES SURVEY

**AUGUST 2013**

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## CALIFORNIA STATE BOARD OF EQUALIZATION

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No. 2013/035

August 6, 2013

TO COUNTY ASSESSORS:

MODOC COUNTY  
ASSESSMENT PRACTICES SURVEY

A copy of the Modoc County Assessment Practices Survey Report is enclosed for your information. The 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 each county and city and county 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 Cheryl Budmark, Modoc County Assessor, 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 Modoc County Board of Supervisors and Grand Jury.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from September through October 2011. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Ms. Budmark and her staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/ David J. Gau

David J. Gau  
Deputy Director  
Property and Special Taxes Department

DJG: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 every county assessor's office. This report reflects the BOE's findings in its current survey of the Modoc County Assessor's Office.

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 Modoc County Board of Supervisors and Grand Jury. 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 Cheryl Budmark, Modoc County Assessor, elected to file her initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys* at page 2) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

## **SCOPE OF ASSESSMENT PRACTICES SURVEYS**

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, a 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.

In addition, pursuant to Revenue and Taxation Code<sup>1</sup> 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. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix B.

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.

Government Code section 15643 requires the BOE to repeat or supplement each survey of a county's assessment practices at least once in five years. Our last full survey of Modoc County was conducted in 2006, and published in 2008. The current survey will serve to supplement the work done during the last survey by: (1) revisiting the issues about which we then made recommendations for improvement, (2) evaluating anew certain major areas of the assessor's operation, and (3) determining, for purposes of Revenue and Taxation Code section 75.60, whether Modoc County continues to be eligible to recover the costs associated with administering supplemental assessments.

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<sup>1</sup> 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.

## EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office.

Many of our recommendations concern portions of programs which are currently effective, but need improvement. In many instances, the assessor is already aware of the need for improvement and is considering changes as time and resources permit.

In the area of administration, we reviewed the following programs: staffing, workload, staff property and activities, and assessment appeals. We found no problems with the staffing, workload, and assessment appeals programs. However, we noted improvement is needed in the staff property and activities program.

In the area of real property assessment, we reviewed the following programs: change in ownership, new construction, declines in value, and taxable possessory interests. We found that the assessor has an effective program for processing changes in ownership. However, the assessor's declines in value and taxable possessory interests programs are in need of improvement. In addition, during our review of the assessor's new construction program, we noted an area of concern with the disabled person accessibility exclusion.

In the area of personal property and fixtures assessment, we reviewed the following programs: audit, business property statement, and business equipment valuation. We found no problems with these programs.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

We found no significant assessment problems as defined in Rule 371. Since Modoc 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, Modoc County continues to be eligible for recovery of costs associated with administering supplemental assessments.

Following is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

- RECOMMENDATION 1:** Develop written procedures that address conflicts of interest, and expand the written procedures that address economic interests and the assessment of staff-owned property.....12
- RECOMMENDATION 2:** Properly grant the disabled person accessibility exclusion for new construction in compliance with section 74.3(d).....24

**RECOMMENDATION 3:** Improve the decline-in-value assessment program by:  
(1) including all required information on the value change notice pursuant to section 619, and (2) annually reviewing all decline-in-value properties pursuant to section 51(e).....26

**RECOMMENDATION 4:** Improve the taxable possessory interest program by:  
(1) deducting allowed expenses from gross income when valuing taxable possessory interests by the direct income approach, (2) valuing taxable possessory interests at the airport with month-to-month tenancies in accordance with section 61(b)(2), (3) using proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests, (4) using the stated term of possession as the reasonably anticipated term of possession in accordance with Rule 21 when valuing taxable possessory interests, and (5) properly issuing supplemental assessments for taxable possessory interests.....28

## **PRIOR SURVEY RECOMMENDATIONS, RESPONSES, AND CURRENT STATUS**

Following are the recommendations included in the BOE's March 2008 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.

### ***Assessment Roll Changes***

**RECOMMENDATION 1:** Cite proper authority when initiating roll changes to notify the auditor-controller when to apply penalties and interest for escape assessments.

**Assessor's Response:**

*We concur and have implemented this recommendation.*

**Current Status:**

This recommendation has been implemented. The assessor is now citing sections 531 to 531.5 for escape assessments, sections 463 and 506 for penalty and interest, and sections 4831 and/or 4831.5 for refunds.

### ***Declines in Value***

**RECOMMENDATION 2:** Annually review the lower of the factored base year value or the current market value of real property as required by section 51(a).

**Assessor's Response:**

*We are taking steps to implement this recommendation.*

**Current Status:**

The assessor has not implemented this recommendation.

**California Land Conservation Act Property**

**RECOMMENDATION 3:** Improve the valuation of CLCA properties by: (1) correctly determining base year values for homesites, (2) correctly determining supplemental assessments for unrestricted portions of CLCA land, and (3) valuing compatible commercial uses using an economic commercial rent.

**Assessor's Response:**

*We concur and have implemented these recommendations.*

**Current Status:**

The assessor has implemented this recommendation. She has redesigned the CLCA assessment program to address the issues raised in the recommendation.

**Taxable Government-Owned Property**

**RECOMMENDATION 4:** Correctly establish the 1975 base year value for taxable government-owned lands acquired before 1975.

**Assessor's Response:**

*We concur and have implemented this recommendation.*

**Current Status:**

The assessor has attempted to implement this recommendation. However, we discovered that the assessor does not have the 1975-76 roll values. Without this information, we cannot determine if the 1975 base year values were properly determined.

**Restricted Historical Property**

**RECOMMENDATION 5:** Revise assessment practices for restricted historical properties by: (1) considering only property income and expenses in the capitalization process, (2) weighting the amortization component of the capitalization rate to reflect the ratio of the improvement value to total property value, and (3) assessing new construction located on historical properties.

**Assessor's Response:**

*We concur and have implemented these recommendations.*

**Current Status:**

The assessor has implemented parts 1 and 3 of this recommendation. The assessor is now using what she considers to be economic rent and expenses in the capitalization process, and is establishing base year values for completed new construction that does not qualify for valuation under section 439, adding the unrestricted or market value for the new construction to the restricted value to arrive at the total property value.

**Business Equipment Valuation**

**RECOMMENDATION 6:** Use supportable minimum percent good factors.

**Assessor's Response:**

*We concur with this recommendation and will utilize the California Assessors' Association (CAA) minimum percent good guidelines along with the guidelines set forth in SBE LTA 2004/019, Minimum Percent Good Factors.*

**Current Status:**

The assessor has implemented this recommendation; she now uses Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581), to value assessable equipment.

**Vessels**

**RECOMMENDATION 7:** Assess all vessels at market value.

**Assessor's Response:**

*We concur and have implemented this recommendation.*

**Current Status:**

The assessor has implemented this recommendation and now has the appropriate value guides to value all years of vessels in the county.

## **OVERVIEW OF MODOC COUNTY**

Located in the far northeast corner of California, Modoc County is bounded on the north by the state of Oregon, on the east by the state of Nevada, on the south by Lassen and Shasta Counties, and on the west by Siskiyou County. Alturas is the only incorporated city in the county and it is the county seat.

Founded in 1874, Modoc County encompasses a total area of 4,203 square miles, of which 3,918 square miles (93 percent) is land and 285 square miles (7 percent) is water. A large portion of the county is federal land. As of 2010, the population estimate for Modoc County was 9,686, which was a 2.5 percent increase from the population of 9,449 reported in 2000.



The following table displays information pertinent to the 2011-12 assessment roll:

	<b>PROPERTY TYPE</b>	<b>ENROLLED VALUE</b>
<b>Secured Roll</b>	Land	\$413,834,018
	Improvements	\$373,876,102
	Fixtures	\$4,455,690
	Personal Property	\$52,295,305
	Total Secured	\$844,461,115
<b>Unsecured Roll</b>	Land	\$7,759,240
	Improvements	\$4,489,317
	Fixtures	\$3,579,989
	Personal Property	\$18,439,384
	Total Unsecured	\$34,267,930
<b>Exemptions<sup>2</sup></b>		(\$19,145,036)
	<b>Total Assessment Roll</b>	<b>\$859,584,009</b>

The next table summarizes the change in assessed values over recent years:<sup>3</sup>

<b>ROLL YEAR</b>	<b>TOTAL ROLL VALUE</b>	<b>CHANGE</b>	<b>STATEWIDE CHANGE</b>
2011-12	\$859,584,000	-2.4%	0.1%
2010-11	\$881,056,000	0.2%	-1.9%
2009-10	\$879,269,000	-1.9%	-2.4%
2008-09	\$896,732,000	4.9%	4.7%
2007-08	\$854,743,000	7.7%	9.6%

<sup>2</sup> The value of the Homeowners' Exemption is excluded from the exemptions total.

<sup>3</sup> State Board of Equalization Annual Report, Table 7.

## ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include the assessor's budget and staffing, workload, staff property and activities, and assessment appeals.

### **Budget and Staffing**

The following table shows the assessor's budget and staffing over recent years:

BUDGET YEAR	GROSS BUDGET	PERCENT CHANGE	PERMANENT STAFF
2011-12	\$420,896	5.8%	6
2010-11	\$397,841	-8.6%	6
2009-10	\$435,196	-10.9%	8
2008-09	\$488,509	0.4%	8
2007-08	\$486,580	2.5%	8

At the time of our survey, the Modoc County Assessor's Office consisted of six full-time staff positions. This included the assessor, an administrative assistant, a real property appraiser, an auditor-appraiser, and two assessment office specialists.

### **Workload**

Generally, the assessor is responsible for annually determining the assessed value of all real property and business personal property (including machinery and equipment) in the county. In order to accomplish this task, the assessor reviews recorded documents and building permits to discover assessable property. In addition, the assessor will identify and value all business personal property (including machinery and equipment), process and apply tax exemption claims for property owned by qualifying religious and welfare organizations, and prepare assessment appeals for hearing before the local board of equalization.

In addition, for most real property, the assessor is required to annually enroll the lower of current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has impacted the taxable value of the property for that year. In certain economic times, this decline may greatly impact the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

As shown in the two prior tables, the assessor's gross budget has increased three of the last five years, with the most recent year showing an increase. The assessment roll has also increased three of the last five years; however, the most recent year shows a decrease. The assessor's workload has fluctuated over recent years, reflecting volatile market conditions. The number of

reappraisable transfers due to changes in ownership decreased three of the last four years, with the most recent year showing a slight increase. The number of new construction assessments has also decreased three of the last four years, with the most recent year showing a decrease. The number of decline-in-value assessments has increased significantly, reflecting an increase of 10,286 decline-in-value assessments from years 2007-08 to 2010-11. The number of assessment appeals filed has increased three of the last four years, showing a peak in 2008-09.

These trends are shown in the following table:

<b>WORKLOAD DESCRIPTION</b>	<b>2010-11</b>	<b>2009-10</b>	<b>2008-09</b>	<b>2007-08</b>	<b>2006-07</b>
Reappraisable Transfers	769	760	924	1,832	2,070
New Construction Assessments	108	204	299	316	290
Decline-In-Value Assessments	13,704	10,051	9,645	3,418	3,598
Assessment Appeals Filed	8	4	21	6	3

**Staff Property and Activities**

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.

An assessor may become aware of employee-owned property through name recognition when a recorded deed is received in the office, through self-declaration by the employee acquiring the property, or from annual filings, such as the California Fair Political Practices Commission Form 700, Statement of Economic Interests (Form 700), which requests information regarding employee ownership in any real property, other than their primary residence, as well as ownership interest in any business entity.

In Modoc County, the assessor has brief written procedures addressing the assessment of staff-owned property. These procedures include the requirement that appraisers annually file BOE-121, *Statement of Financial Interest*. The Modoc County Administrative Services Department does not have any procedures regarding county employees and outside employment. The deputy clerk of the clerk's office does not require the assessor to file Form 700, but has indicated that this may soon become a requirement.

We reviewed all submitted forms relating to financial or economic interests, as well as property files and assessments for property owned by the assessor and her staff. We found that all certified appraisers had completed BOE-121, and that the assessor notified the BOE. We found no instances where staff was involved in the valuation of property in which they have an interest or a close familial connection. Based upon our review, however, we have the following recommendation:

**RECOMMENDATION 1:** Develop written procedures that address conflicts of interest, and expand the written procedures that address economic interests and the assessment of staff-owned property.

We found that the assessor has no written procedures for conflicts of interest and that her procedures relating to economic interests are limited to one sentence stating that the appraisers shall file BOE-121, *Statement of Financial Interest*, each year. Additionally, we found that the assessor's written procedures for staff-owned property do not fully address the assessment of real and personal property in which staff in the assessor's office holds an interest, nor do the procedures include provisions for the review of such assessments. During our review, we found evidence of a staff member being involved in the processing of a business property statement that the staff member had prepared and submitted to the assessor's office. While our review found no problems with the assessed values enrolled for the business, this incident does not reflect good business practice.

One of the fundamental duties of an assessor is to establish the fair market value of property; at times, this will involve the assessment of property in which county staff has an interest. Letter To Assessors No. 2008/058 was issued as a guide to assist assessors in establishing procedures relative to the assessment of staff-owned property. Additionally, the issue of preventing conflicts of interest in assessors' offices has been statutorily addressed. Section 672 provides that certified employees must reveal their financial interests held in corporations and section 1365 prohibits the assessor and his/her employees from engaging in remunerative employment that would involve a conflict of interest with their official activities.

The procedures for the assessment of staff-owned property need not be lengthy or complicated, but should be formalized in a written format and provided to all staff. The procedures adopted by the assessor should:

- Clearly define the assessor's policies and procedures,
- Establish staff's responsibilities,
- Create a file or listing of all staff-owned property in the county,
- Contain well-defined review procedures, and
- Accurately track and document all events with potential assessment implications.

An expansion or amendment of the assessor's existing procedures for staff-owned property that includes these bulleted practices is recommended. This is deemed particularly important for smaller assessor operations where staff is involved in a wide variety of office functions.

An expansion of the procedures related to economic interests is also recommended. These procedures should address contract appraisers, and the assessor's annual letter to the BOE reporting that all certified appraisers have met the requirements of section 672.

Additionally, we recommend the creation of procedures dealing with conflicts of interest. The procedures should provide a guide to staff regarding the kinds of activities that are incompatible with their public duties and, therefore, prohibited. The procedures should also contain a process for the application and approval of outside employment, and a description of the potential punitive action for noncompliance. Further development of and adherence to the procedures in these three areas would help ensure that staff is aware of the office policy.

## **Assessment Appeals**

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeals process.

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board (clerk). The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application for reduction by the same taxpayer.

In Modoc County, the five-member board of supervisors sits as the county board of equalization. In most cases, only a majority of the board of supervisors must be present to hold a hearing; however, the applicant or the assessor may request that all five board members be present for a particular hearing. There are no hearing officers. Since the assessor does not provide notice to all taxpayers of the assessed value of their real property by August 1, the appeals filing period in Modoc County is July 2 through November 30.

Assessment appeal applications are available from the clerk at the board of supervisors' office. The clerk will also mail applications to taxpayers upon request via telephone or mail. All applications are to be submitted directly to the clerk; the clerk does not currently accept electronically submitted applications for changed assessments. Applicants may fax their applications to the clerk; however, faxed applications are not valid unless a hard copy of the application containing the original signature is received by the clerk before the November 30 filing deadline. The clerk, upon receipt, date stamps the application, reviews it for completeness, and assigns it an appeals number. If the applicant has not included all of the necessary information on the application, the clerk will return the application to the applicant, requesting the missing information.

The following table summarizes the assessment appeals workload over recent years:

YEAR	2010-11	2009-10	2008-09	2007-08	2006-07
Appeals Filed	8	4	21	6	3
Appeals Carried Over From Prior Year	4	21	10	4	1
<b>Total Appeals Workload</b>	<b>12</b>	<b>25</b>	<b>31</b>	<b>10</b>	<b>4</b>
Resolution:					
Withdrawn	4	9	5	0	0
Stipulation	0	0	0	0	0
Appeals Reduced	0	0	0	0	0
Appeals Upheld	0	0	0	0	0
Appeals Increased	0	0	0	0	0
Other Determination*	0	12	5	0	0
<b>Total Resolved</b>	<b>4</b>	<b>21</b>	<b>10</b>	<b>0</b>	<b>0</b>
To Be Carried Over**	8	4	21	10	4

\* Note: Includes, but not limited to late-filed appeals, applicants' failure to appear and board denied applications.

\*\*Note: "To Be Carried Over" includes appeals with time extensions by mutual agreement of the parties.

Once received, the clerk forwards a copy of the application to the assessor; the original stays in the possession of the clerk. Depending on the number of applications received, assessment appeals hearings are typically scheduled once a year in the fall. Prior to the hearing, the clerk sends each applicant a notice informing them of the date and time of the hearing. Attached to that notice is a form asking the applicant whether they will be present for the scheduled hearing or if they would like to withdraw their application.

In the assessor's office, either the assessor or the administrative assistant receives the copies of the assessment appeals applications from the clerk. The administrative assistant maintains a spreadsheet of the appeals by appeal number and the date received. The spreadsheet also has entry fields for the type of appeal and the date the appeal was completed. The spreadsheet allows the assessor to track the progress of any appeal to ensure that it is resolved timely and that no appeal goes unresolved beyond the two-year time period. The applications are also checked by the assessor for completion and/or correctness. Once verified, the applications are forwarded to the appropriate appraiser.

Appeals are assigned to the appraiser responsible for valuing property within the geographical location of the property under appeal. An appeal that involves the valuation of business personal property is handled by the auditor-appraiser; however, the auditor-appraiser also performs the duties of a real property appraiser.

When working an assessment appeal, the appraiser will contact the applicant to discuss the current assessed value and to determine the basis of the applicant's request for a reduction. If an

adjustment to the assessed value is warranted, the appraiser will recommend a reduction; if not, the applicant is given the option to withdraw the assessment appeal or proceed to a hearing. If an applicant wishes to withdraw the appeal, they are instructed to notify the clerk.

As shown in the previous table, there have been no appeals presented for hearing within the last five years. All assessment appeals have been withdrawn, determined to be invalid by the clerk, or denied by the local board of equalization due to the applicant failing to appear for the scheduled hearing.

We found the assessor's portion of the assessment appeals program to be properly administered.

## ASSESSMENT OF REAL PROPERTY

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as taxable possessory interests.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, except that it can be adjusted annually for inflation by a factor not to exceed 2 percent.

### ***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 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 change in ownership.

### **Document Processing**

The assessor's primary source of discovering properties that have changed ownership is through the analysis of deeds and other recorded documents from the recorder's office. The recorder's office requires BOE-502-A, *Preliminary Change of Ownership Report* (PCOR), to accompany documents submitted for recordation transferring ownership of real property. If a transfer document is received without a PCOR, the recorder's office will apply a \$20 charge to the recording fee. PCORs are available at both the assessor's and recorder's offices, as well as at the local title company. Modoc County has a local ordinance that requires the assessor's parcel number be included on all recorded documents involving real property.

Each night, images of all recorded documents are electronically transferred from the recorder's office to the assessor's office. The next morning, the documents are imported to one of the assessor's computer systems for sorting by an assessment office specialist. Documents not associated with assessor's office functions are culled and discarded. The recorder's office hand delivers PCORs to the assessor's property transfer section on a daily basis. Approximately 90 percent of the documents received from the recorder have a corresponding PCOR.

Documents retained by the assessor are matched with corresponding PCORs before being processed. Each transfer document and PCOR are reviewed by an assessment office specialist and verified for such things as the document number, the legal description, and the names of the grantor/grantee. Map books and property records are updated on the assessor's computer system

as transfer documents are worked. Existing homeowners' exemptions are coded for deletion following a change in ownership, and homeowners' exemption applications are mailed to transferees that have the potential of being an owner-occupant of the acquired residence. Notations are made in the appraisal record and the records are placed in the appraiser's inbox. PCOR imagery and electronic appraisal records for pending files are transferred electronically to the appraisers' workload files.

The following table sets forth the total number of recorded documents received and the total number of reappraisable transfers processed in recent years:

YEAR	RECORDED DOCUMENTS RECEIVED	REAPPRAISABLE TRANSFERS
2010-11	3,402	769
2009-10	3,386	760
2008-09	1,671	924
2007-08	N/A	1,832
2006-07	N/A	2,070

The significant drop in the number of reappraisable events shown in the table was due to a rapidly weakening economy and the end of marketing efforts for the California Pines community, which is a very large residential subdivision in Modoc County.

**Penalties**

When the assessor receives a recorded document without a PCOR, an assessment office specialist sends the property owner a BOE-502-AH, *Change in Ownership Statement (COS)*, along with a letter requesting completion of the COS within 45 days. Typically, this process yields an approximate COS return rate of 85 percent. However, if there is no response, an additional letter is sent with another COS giving the property owner an additional 15 days to return the completed COS before penalties are applicable. The second letter is certified with a return receipt request. For incomplete PCORs, the assessor initially returns the incomplete PCOR to the property owner for completion. If the PCOR is not completed and returned, then an assessment office specialist will begin the COS process as described previously.

During the time of our survey, the assessor's practice of allowing the property owner more than 45 days to file a completed COS as requested by the assessor was not in compliance with section 482(a). However, since that time, Senate Bill 507 (Stats. 2011, ch. 708) was enacted and, effective January 1, 2012, amends section 482(a) to allow property owners 90 days to return a completed COS when requested by the assessor before penalties will be applicable. As of January 1, 2012, the assessor's current practice is in compliance with statute. Therefore, we will not be making a recommendation on this issue.

## Transfer Lists

Pursuant to section 408.1(a), the assessor shall maintain a list of transfers of any interest in property, other than an undivided interest, within the county, which have occurred within the preceding two-year period. Section 408.1(e) states the provisions of section 408.1(a) shall not apply to any county with a population under 50,000 people, as determined by the 1970 federal decennial census. Based on the population of 7,469 in Modoc County in 1970, the assessor is not required to maintain a transfer list and has elected not to maintain one.

## 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 of legal entity changes in control under section 64(c) and changes in ownership under 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) provides for application of a penalty if a person or legal entity required to file a statement under 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.<sup>4</sup> 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.

In Modoc County, the assessor discovers changes in control or ownership of legal entities by reviewing monthly LEOP reports from the BOE, business property statements, and recorded documents.

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<sup>4</sup> Effective January 1, 2012, Senate Bill 507 (Stats. 2011, ch. 708) amended the filing requirement in section 482(b) from 45 days to 90 days for a person or legal entity to report a change in control or change in ownership, or to comply with a written request from the BOE, whichever occurs earlier.

When the assessor receives the monthly LEOP reports, an assessment office specialist reviews the reports and identifies the parcels located within Modoc County. A name search is also performed to ensure that all of the entity's real property is identified and reassessed.

Modoc County has had only one change in control of a legal entity in recent years. We reviewed the records and found that the assessor is doing a sufficient job in reviewing LEOP reports and reassessing all property interests identified on BOE-100-B. The BOE-100-B was filed timely, so penalties were not applicable.

**Change in Ownership Exclusions – Section 63.1**

Section 63.1 generally excludes from the definition of "change in ownership" the purchase or transfer of principal residences and the first \$1 million of other real property between parents and children. Section 63.1 also excludes qualifying purchases or transfers from grandparents to their grandchildren.

To enforce the \$1 million limit for property other than principal residences, the BOE maintains a database that lists transfers of such property statewide. To further the state and local interests served by tracking these transfers, section 63.1 encourages county assessors to report such transfers to the BOE on a quarterly basis. The quarterly reporting, which was formerly mandatory, is now optional. However, if an assessor opts not to report quarterly to the BOE, the assessor must track such transfers internally to be in compliance with section 63.1.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have exceeded their \$1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

The following table sets forth section 63.1 claims filed and granted in recent years:

<b>YEAR</b>	<b>SECTION 63.1 CLAIMS FILED</b>	<b>SECTION 63.1 CLAIMS GRANTED</b>
2010-11	232	197
2009-10	205	194
2008-09	219	196
2007-08	284	N/A
2006-07	183	N/A

If a PCOR or COS indicates a transfer may be between a parent(s) and child(ren) or from grandparent(s) to grandchild(ren), the assessor is proactive in notifying taxpayers of a possible change in ownership exclusion. The assessor sends interested parties a claim form, along with a letter explaining the exclusion; the claim form is tracked using a spreadsheet. If there is no response within 30 days, a second claim form is sent. If there is no response after an additional 30 days, the property is reappraised. A third claim form is sent with the notice of supplemental assessment.

An assessment office specialist reviews all section 63.1 applications and determines if the exclusion will be granted or denied. The taxpayer is typically notified by telephone when an application is either accepted or denied.

The assessor submits optional quarterly reports to the BOE listing approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. When the assessor receives a *Report of Transferors Exceeding \$1,000,000* from the BOE, the report is reviewed to determine if a transferor has exceeded the limit. If multiple properties transfer, the assessor allows the property owner or representative to determine which properties to exclude and which to reassess. If parcels exceeding the limit are in counties other than Modoc County, the assessor contacts the property owner to determine how they would like to have the excess allocated and reassessed.

Pursuant to section 63.1(i), the assessor protects confidential information furnished on claim forms by keeping all claim forms in a secure file not accessible to the public. Currently the assessor is in the process of scanning the older section 63.1 applications. Eventually, all section 63.1 applications will be scanned into the computer system. The images will not be accessible by the public.

**Change in Ownership Exclusions – Section 69.5**

Section 69.5 generally allows persons 55 years of age or older, or who are severely and permanently disabled, to transfer the base year value of a principal residence to a replacement residence of equal or lesser value located within the same county. A county board of supervisors may provide by ordinance that base year values may be transferred from properties located outside the county.

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

The following table sets forth section 69.5 claims filed and granted in recent years:

<b>YEAR</b>	<b>SECTION 69.5 CLAIMS FILED</b>	<b>SECTION 69.5 CLAIMS GRANTED</b>
2010-11	1	1
2009-10	0	0
2008-09	3	3
2007-08	0	N/A
2006-07	2	N/A

Modoc County does not have an ordinance in place to accept base year value transfers from other counties. If a PCOR or COS indicates a transfer may involve a base year value exclusion, the assessor sends interested parties a claim form along with a letter explaining the exclusion. The administrative assistant reviews all submitted claims, and an appraiser determines the fair market value of both the replacement and original properties. When a claim is either accepted or denied, the assessor typically informs the taxpayer by telephone.

The assessor submits required quarterly reports to the BOE listing approved section 69.5 exclusions. The assessor has instituted a document scanning program that allows staff to verify that past section 69.5 claims for exclusion have not previously been filed by the taxpayer. Along with utilization of the BOE's *Duplicate SSN Report*, the assessor has an efficient program for identifying duplicate claims.

Pursuant to section 69.5(n), the assessor protects confidential information furnished on the claim form by scanning all forms into the computer system allowing only authorized personnel to access the information. Claim forms are not available for public viewing.

## Valuation

Once a transfer has been determined to be a reappraisable event, the information is sent to an appraiser for valuation. Every reappraisable transfer is reviewed to confirm that the reported sale price accurately reflects market value; the sale price is not automatically enrolled. Residential properties experiencing a change in ownership are valued using the comparative sales approach; however, commercial properties are valued using the comparative sales approach, with secondary consideration given to the income approach. If the property is unique, the cost approach may be considered, as well. The assessor keeps a database of transferred parcels to use as comparables for both improved and unimproved parcels. Field inspections are performed on all properties undergoing a change in ownership that involve existing improvements or new construction. With the exception of remote, inaccessible, and/or unimproved properties, the majority of the properties undergoing a change in ownership are field inspected.

We reviewed a number of files involving changes in ownership for residential, commercial, rural, and agricultural properties. We found that the assessor correctly values properties subject to reappraisal due to changes in ownership. In addition, the assessor properly applies the inflation factor and creates supplemental assessments when appropriate. We have no recommendations for this program.

## **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.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and the Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c) and (d), and sections 73 through 74.7 address these exclusions.

### Discovery

In Modoc County, the assessor's primary means of discovering assessable new construction is by reviewing building permits. The assessor receives building permits from three permit-issuing agencies: Modoc County Building and Safety Department, City of Alturas Building Department, and Modoc County Environmental Health Department. The health department issues permits and final notices for wells and septic systems. The two building departments provide the assessor with all permits on a monthly basis; the permits are either faxed or delivered by inter-office mail. The assessor also receives notices of completion and building plans from each of the three permit-issuing agencies.

Building permits are tracked using a filing system. The assessor reviews building permits to make sure that the assessor's parcel number referenced on the permit corresponds with the address where the work is to be performed. For every building permit issued, the assessor logs on to the property's building record to log the permit number, the date issued, and a brief description of the work to be performed. The appraiser can refer to the filed permit if needed. All new construction is field inspected.

The assessor sends *Property Owner's Statement on New Construction* questionnaires to most permit applicants. The assessor has a return rate of approximately 85 percent on new construction questionnaires. The information received from the taxpayer is used as an additional source of data for the valuation process of the new construction.

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

YEAR	BUILDING PERMITS RECEIVED	NEW CONSTRUCTION ASSESSMENTS
2010-11	188	108
2009-10	230	204
2008-09	296	299
2007-08	338	316
2006-07	431	290

The assessor does not have a formal program in place for the discovery of unpermitted new construction. Unpermitted new construction is discovered each year through informal means, such as field canvassing and taxpayer notification. Escaped new construction is enrolled as of the date of completion. The date of completion of escaped new construction is determined by the appraiser through various means, such as completion documentation, field inspections, or information from the property owner. The assessor enrolls supplemental assessments, as allowed by law, for escaped new construction when discovered.

**Valuation**

The assessor values new construction by estimating the market value of the improvements as of the lien date for construction in progress and as of the date of completion for completed new construction. Appraisers determine the status of new construction from notices of completion prepared by the permit-issuing agencies, information provided by property owners, or field inspections. All qualifying new construction permits are field reviewed. Appraisers prepare computerized diagrams for all newly constructed buildings based on either actual field measurements or provided plans, and these diagrams are included in the building record.

The assessor typically uses the cost approach to value new construction. The assessor utilizes reported costs in conjunction with cost estimates derived using Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), Assessors' Handbook Section 534, *Rural Building Costs* (AH 534), local costs, and *Marshall Valuation Service*. The unit cost source used by the appraiser is documented on the property record.

The assessor's records were well documented, showing construction in progress assessed as of the lien date and completed new construction assessed as of the date of completion. When appropriate, supplemental assessments were issued as of the completion date. In addition, we found that newly constructed active solar energy systems are excluded from assessment for the original owner or initial purchaser in accordance with section 73, and fire sprinkler systems are only excluded when added to an existing building in accordance with section 74.

Overall, we found the assessor's program for the assessment of new construction to be thorough and the values to be reasonable; however, there is one area where improvements can be made.

**RECOMMENDATION 2:** Properly grant the disabled person accessibility exclusion for new construction in compliance with section 74.3(d).

The assessor properly excludes from reassessment construction performed for the purpose of making a building or structure more accessible to, or more usable by, a severely and permanently disabled person. However, in addition to excluding structures necessary for the utilization of the home by a severely and permanently disabled person, the assessor also excludes structures not specifically deemed necessary or incidental to the qualified improvements. For example, a wheelchair access ramp leading from a carport to a deck would be justified to be excluded from new construction under section 74.3; however, the carport and the deck would be considered non-incidental and would not qualify for exclusion under this section. The assessor is incorrectly including these types of structures in the exclusion.

Section 74.3(d) states, "The exclusion provided by this section shall apply only to those improvements or features that specially adapt a dwelling accessibility by a severely and permanently disabled person. The value of any improvement, addition, or modification excluded pursuant to this section shall not include any other functional improvement, addition, or modification to the property unless it is merely incidental to the qualified improvements or features."

By including unqualified new construction under the disabled person accessibility exclusion, the assessor is excluding assessable property from assessment. This practice results in a loss of revenue and improper application of the exclusion as allowed by law.

### ***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.

Modoc County has experienced notable decreases in property values in recent years. Consequently, there has been a significant increase in the total number of properties eligible for decline-in-value assessments. This increase represents a major addition to the assessor's workload in recent years.

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

YEAR	DECLINE-IN-VALUE ASSESSMENTS
2010-11	13,704
2009-10	10,051 <sup>5</sup>
2008-09	9,645
2007-08	3,418
2006-07	3,598

The assessor does not have a formal program for recognizing properties suffering from a decline in value. However, the assessor and her staff have been proactive in reviewing properties in the county for possible declines in value. The main sources for the discovery of properties suffering from a decline in value are from taxpayer requests for an informal assessment review, appraiser familiarity with their assigned geographical area, and by the decline-in-value review of a neighboring property within a homogeneous area.

The informal assessment review process is applicable for most property types within Modoc County. Taxpayers owning property in Modoc County may request an informal review of their assessment by telephone or at the public counter at the assessor's office. Taxpayers making telephone requests are mailed an *Informal Assessment Review* form to complete and return to the assessor. Although applicants for an informal assessment review are asked to present supporting evidence of a decline in value, such as comparable sales, this is not a requirement for filing. Applicants filing an informal request for review near the final filing date for an assessment appeal (November 30) are also advised to file an assessment appeal in case the assessor cannot complete their informal review before the assessment appeals filing deadline.

Requests for an informal assessment review are tracked on the computer by the date of request, assessor's parcel number (APN), date the form was sent, date the form was returned, and date the appraiser responded. Properties in decline-in-value status are coded and tracked on the assessor's computer system, which allows the assessor to print a list of properties needing annual review. Once a property is identified as being in decline-in-value status, the property is given a use code of "8" to identify for annual tracking purposes and a CPI code of "3" to temporarily suspend application of the annual inflation factor until the FBYV is restored.

Residential properties, dependent upon their location, are reviewed for a decline in value on an individual basis or, if possible, in mass. The assessor relies on the comparative sales and cost approaches to value to determine a property's current market value as of the lien date. When reviewing properties located in a homogeneous area, the assessor analyzes recent sales of similar properties. For each of the properties being reviewed, a total property value for both land and improvements is established, which is then compared to the FBYV, and the lower of the two values is enrolled as the assessed value. Residential property owners are notified of the result of

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<sup>5</sup> For year 2009-10, the assessor did not report the number of decline-in-value assessments to the BOE on the annual report. We were able to obtain this number from Cheryl Tessier, Administrative Assistant, on September 8, 2011.

an informal assessment review by mail or, for more complex properties, by a follow up telephone conversation with the taxpayer.

Rural properties are reviewed for a decline in value if an informal request for review is received or if the appraiser working an area deems values for similar properties have declined. If it appears a review is warranted for a rural property, a computer printout of similar rural properties is generated. An informal review is then completed on the requested property, as well as those properties on the list for that area. Other remaining residential properties located throughout the county are adjusted for declines in value on an individual basis as they are discovered.

A majority of the real property in Modoc County affected by declines in value are vacant, rural homesites located in an area known as California Pines. Adjustments to vacant homesites in California Pines are generally made in mass. The assessor determines the market value as of the lien date, using sales of similar homesites. The indicated market value is then compared to the FBV and the lower of the two values is enrolled as the assessed value. Larger sites and sites with improvements are generally valued individually.

Due to the poor economic climate and continued downward movement of property values in Modoc County, there are no residential properties where the assessor has recently either partially or fully restored the FBV.

The assessor does not have a program to identify declines in value of commercial properties. Declines in value of commercial properties are discovered either from a taxpayer's informal request for assessment review or from appraiser familiarity with the commercial area. When reviewing income-producing properties for declines in value, the appraiser uses the comparative sales and cost approaches to determine current market value; the income approach is utilized if necessary to help in the valuation analysis. The indicated market value reconciled from the approaches is compared to the property's FBV and the lower of the two values is enrolled as the assessed value. Commercial property owners are notified of the result of an informal assessment review by mail. There are very few commercial properties in Modoc County that are in decline-in-value status. In addition, there were no requests for an informal assessment review of any commercial properties for the past roll year.

During our review of the assessor's declines in value program, we noted a few areas in need of improvement.

**RECOMMENDATION 3:** Improve the decline-in-value assessment program by:  
(1) including all required information on the value change notice pursuant to section 619, and (2) annually reviewing all decline-in-value properties pursuant to section 51(e).

**Include all required information on the value change notice pursuant to section 619.**

We found that the letters being utilized to notify assesseees of a value change to their assessed values do not contain all information required by section 619. Section 619(b) provides that the information given by the assessor to the assessee shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment appeals will be accepted and the place where they may be filed. The information shall also include an

explanation of the stipulation procedure set forth in section 1607. Section 619(c) provides that in the case of an increase in a property's full value over the property's full value determined for the prior year in accordance with section 51, the information shall also include the property's FBVY.

By not including all required information in the letters sent to taxpayers indicating a value change to their assessed values, the assessor is not in compliance with current statute and taxpayers are not being properly notified of the information concerning the property's assessed value or their rights to file for property tax relief.

**Annually review all decline-in-value properties pursuant to section 51(e).**

The assessor has not been reviewing and documenting all decline-in-value assessments on an annual basis as required by section 51(e). Section 51(e) provides that it is not necessary for the assessor to make an annual reappraisal of all assessable property to determine if it qualifies for a decline-in-value assessment; however, it also provides that once the base year value of real property is lowered to reflect a decline in value, it must be annually reappraised until its market value exceeds its FBVY.

By not reviewing these assessments, the assessor is not in compliance with applicable statutes and may be assessing some properties at an amount that is other than the appropriate taxable value.

***Taxable Possessory Interests***

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly-owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

In Modoc County, the assessor enrolled 254 taxable possessory interests for the 2011-12 roll year, with a total value of \$8,214,627. The following table shows the distribution of these assessments:

<b>TYPES OF TAXABLE POSSESSORY INTERESTS</b>	<b>NUMBER OF ASSESSMENTS</b>
Grazing Permits	161
Agricultural Leases	31
Airport Hangars	28
Cable Television	1
Other	33
Total	254

The assessor enrolls taxable possessory interests on the unsecured roll. The assessor's computer inquiry screen identifies the type of taxable possessory interest being assessed by use of specific code numbers referenced under "PAR TYPE" on the inquiry screen. The parent fee parcel is also noted on the assessor's inquiry screen. Ownership information on the parent fee parcels includes the specific local, state, or federal agency that owns the parcel.

The assessor is responsible for the assessment of taxable possessory interests for grazing permits on U.S. Forest Service (USFS) and Bureau of Land Management (BLM) lands. The senior appraiser and auditor-appraiser are responsible for tracking and assessing all other taxable possessory interests. This includes cable television, employee housing, mining claims, hangars, agricultural leases, and taxable possessory interests on taxable government-owned lands.

Each year the assessor receives rent information from the Modoc County Fairgrounds. Pursuant to section 155.20, the Modoc County Board of Supervisors has adopted a low-value resolution for assessments at the publicly-owned fairgrounds. Resolution Number 05-52 exempts from taxation real property possessory interest assessments for use of a publicly owned fairground having a full value of \$3,000 or less. A review of taxable possessory interest assessments at the fairgrounds for the 2011-12 roll year showed that the assessor properly exempted those properties with a value at or below \$3,000.

In our review of the assessor's program for the discovery and assessment of taxable possessory interests, we found several areas in need of improvement.

**RECOMMENDATION 4:** Improve the taxable possessory interest program by: (1) deducting allowed expenses from gross income when valuing taxable possessory interests by the direct income approach, (2) valuing taxable possessory interests at the airport with month-to-month tenancies in accordance with section 61(b)(2), (3) using proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests, (4) using the stated term of possession as the reasonably anticipated term of possession in accordance with Rule 21 when valuing taxable possessory interests, and (5) properly issuing supplemental assessments for taxable possessory interests.

**Deduct allowed expenses from gross income when valuing taxable possessory interests by the direct income approach.**

When valuing taxable possessory interests by the direct income approach, the assessor is not consistently making deductions from the gross rent for management and other operating expenses incurred by the public lessor. The assessor is making a deduction for management expense in some categories of taxable possessory interests, but not others.

Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), provides that allowed expenses paid by the public owner should be deducted from the estimated economic rent. Rule 21(e)(3)(C) provides that the income to be capitalized in the valuation of a

taxable possessory interest is the "net return" (as defined in subsection (c) of Rule 8) attributable to the taxable possessory interest.

A public owner will incur at least some management expense with each taxable possessory interest. Some lease agreements may require the public owner to pay for insurance, maintenance, or utilities. By not recognizing these allowable expenses and subtracting them from the gross income to be capitalized, the assessor may be overstating the value of these taxable possessory interests.

**Value taxable possessory interests at the airport with month-to-month tenancies in accordance with section 61(b)(2).**

We found that the values for all of the hangars were determined several years ago, and the assessor continues to enroll the same value each year, without applying the annual inflation factor and without taking into consideration when the reasonably anticipated term of possession expires. The assessor is not tracking the factored base year value of the hangars, and the hangars have not been identified on the roll as having experienced a decline in value. In addition, we could not determine by the documentation in the file what rents, anticipated terms of possession, or discount rates the assessor used to initially value all of the hangars several years ago.

Section 61(b)(2) provides that the renewal or extension of a taxable possessory interest during the reasonably anticipated term of possession used by the assessor to value that interest does not cause a change in ownership until the end of that reasonably anticipated term of possession. At the end of the reasonably anticipated term of possession, the assessor should establish a new base year value based on a new reasonably anticipated term of possession. Thus, for example, if the assessor determines a reasonably anticipated term of possession of three years to initially value a taxable possessory interest, the assessor should revalue that taxable possessory interest at the expiration of the three-year term used to value that interest, assuming there is no change in tenants. If no decline in value is identified after establishing the new base year value, this value should be indexed by the appropriate inflation factor each year and, at the end of the reasonably anticipated term of possession, that interest should be reassessed.

In addition, we obtained a list of renters and their current rents from the Alturas Airport and compared them to the values enrolled by the assessor. We found that the current contract rents provided by the airport would indicate a much lower value than what is being assessed. By continuing to enroll the same value each year for each of the hangars at the airport without reviewing for a possible decline in value or reassessing at the end of their anticipated terms, the assessor may be enrolling incorrect assessments.

**Use proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests.**

Several components are used by the assessor to develop a capitalization rate when valuing taxable possessory interests. The assessor applies the annual open-space land interest component recommended by the BOE, and then adds a component for risk and a component for property taxes, regardless of whether the landlord or the tenant pays the property taxes.

According to AH 510, and consistent with Rule 8, a capitalization rate for valuing a taxable possessory interest may be developed using any of the following methods:

- By comparing the anticipated net incomes from comparable taxable possessory interests with their sale prices stated in cash or its equivalent and adjusted as described in Rule 21(e)(1)(A).
- By comparing anticipated net incomes of comparable fee simple absolute interests in real property with their sale prices stated in cash or its equivalent, provided the comparable fee properties are not expected to produce significantly higher net incomes subsequent to the subject taxable possessory interest's term of possession than during it.
- By deriving a weighted average of the capitalization rates for debt and equity capital appropriate for the subject taxable possessory interest, weighting the separate rates of debt and equity by the relative amounts of debt and equity capital expected to be used by a typical purchaser of the subject taxable possessory interest.

Also consistent with Rule 8(f), the capitalization rate should include a component for property taxes, where applicable. According to AH 510, when the landlord (lessor) is responsible for paying the property taxes, the capitalization rate should include a component for property taxes. However, if the tenant is responsible for paying the property taxes in addition to rent, the capitalization rate should not include a component for property taxes. With most taxable possessory interests, the possessory interest tax is paid by the tenant (lessee or possessor) in addition to rent and, therefore, the capitalization rate typically should not include a component for property taxes.

Using improper methodology to develop a capitalization rate when valuing taxable possessory interests may cause the assessor to apply an inappropriate capitalization rate and enroll incorrect assessments.

**Use the stated term of possession as the reasonably anticipated term of possession in accordance with Rule 21 when valuing taxable possessory interests.**

We found several instances in which the assessor did not use the stated term of possession as the reasonably anticipated term of possession when valuing a taxable possessory interest. For example, the assessor values all grazing permits as if they were without a stated term of possession and re-establishes the base year value each year using a ten-year reasonably anticipated term of possession.

Rule 21(d)(1) states, in part, "The stated term of possession shall be deemed the reasonably anticipated term of possession unless it is demonstrated by clear and convincing evidence that the public owner and the private possessor have reached a mutual understanding or agreement, whether or not in writing, such that the reasonably anticipated term of possession is shorter or longer than the stated term of possession. If so demonstrated, the term of possession shall be the stated term of possession as modified by the terms of the mutual understanding or agreement."

Rule 21(a)(6) defines the stated term of possession for a taxable possessory interest as of a specific date as "...the remaining period of possession as of that date as specified in the lease, agreement, deed, conveyance, permit, or other authorization or instrument that created, extended, or renewed the taxable possessory interest, including any option or options to renew or extend

the specified period of possession if it is reasonable to assume that the option or options will be exercised." Therefore, the stated term of possession declines each year. This may or may not have a material effect on the market value of the possessory interest. Thus, absent clear and convincing evidence of a mutual understanding or agreement as to a shorter or longer term of possession, the assessor must estimate the current market value of the taxable possessory interest on the lien date based on the remaining stated term of possession, compare this value to the factored base year value, and enroll the lower of the two values.

We found no evidence in the files demonstrating that the public owner and private possessor had reached a mutual understanding or agreement, whether in writing or not, such that the stated term of possession should not be deemed to be the reasonably anticipated term of possession. Therefore, the assessor should use the stated term of possession to establish the base year value of the taxable possessory interest and then, for subsequent years, periodically review the taxable possessory interest for a possible decline in value using a declining term based on the remaining term of possession. If the assessor does have clear and convincing evidence to support using a term other than the stated term of possession, then the assessor should properly document that evidence in the file. The assessor's practice of re-establishing the base year value each year and using a term of possession different from the stated term of possession is contrary to Rule 21 and may result in incorrect assessments.

**Properly issue supplemental assessments for taxable possessory interests.**

We reviewed a number of taxable possessory interest appraisals made due to a change in ownership and found that the assessor does not consistently issue a supplemental assessment upon the renewal of a taxable possessory interest lease when the tenant remains the same.

Section 61(b) provides that the creation, renewal, extension, or assignment of a taxable possessory interest is a change in ownership. Section 75.11 provides that there shall be a supplemental assessment following a change in ownership or completion of new construction. AH 510 advises that the supplemental assessment amount for the newly created taxable possessory interest should be based on its fair market value without offset for a prior value on the regular assessment roll.

The assessor's failure to properly issue supplemental assessments results in a loss of revenue and inconsistent treatment of taxpayers.

## ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

In this section of the survey report, we review the assessor's audit, business property statement, and business equipment valuation programs.

### **Audit Program**

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

Prior to January 1, 2009, section 469 required county assessors to audit at least once every four years the books and records of any taxpayer engaged in a profession, trade, or business if the taxpayer had assessable trade fixtures and business tangible personal property valued at \$400,000 or more. These statutorily required audits are commonly referred to as mandatory audits. Additionally, a county assessor may audit the books and records of taxpayers with holdings below \$400,000 in value under the authority of section 470. These audits are referred to as nonmandatory audits. Generally, county assessors perform both mandatory and nonmandatory audits to ensure that their audit program includes a representative sample of all sizes and types of property taxpayers with personal property holdings subject to the property tax.

Effective January 1, 2009, county assessors are no longer required to audit all taxpayers with trade fixture and business tangible personal property holdings of \$400,000 or more at least once every four years. Instead, the county assessor is required to annually audit 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 at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments. Thus, while section 469 still mandates a certain level of audits that must be performed annually, assessors now have some flexibility in determining which accounts will comprise this mandated workload.

The following table shows the total number of audits completed over recent years:

YEAR	2011-12	2010-11	2009-10	2008-09	2007-08
Audits Scheduled	4	1	6	13	2
Others	15	19	1	0	12
<b>Total Audit Workload</b>	19	20	7	13	14
Audits Completed	19	20	7	13	14
<b>Audits Carried Forward</b>	0	0	0	0	0

In Modoc County, the audit responsibility falls upon one auditor-appraiser, who is under the direction of a senior appraiser.

As previously noted, effective January 1, 2009, section 469 specifies a minimum audit workload equal to 75 percent of a statutorily defined base level. Rule 192 prescribes the computation establishing minimum required audit production and provides the basis for the audit selection process. According to Letter To Assessors No. 2009/049, the amended statute requires the assessor to complete two audits per year hereafter. Given recent and current audit production levels, the assessor has exceeded the minimum number of audits required as defined by section 469.

**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.

We sampled several completed audits and found that they were thoroughly conducted, well documented, and supported by a comprehensive audit narrative and checklist defining the areas of investigation. We found that the assessor verifies leased equipment, accounts for supplies, conducts field inspections, and properly classifies equipment. We also reviewed the assessor's application of roll corrections to reflect audit findings and found that when correcting for multiple-year audit findings, the assessor is enrolling roll corrections for each year in which the escape assessment took place, which is consistent with section 531.

Overall, the assessor's audit program is effectively managed. We have no recommendations regarding this program.

**Business Property Statement Program**

Section 441 requires that each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more annually file a business property statement (BPS) with the assessor; other persons must file a BPS if requested by the

assessor. Property statements form the backbone of the business property assessment program. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

The following table displays the assessor's workload of secured and unsecured BPSs and assessments for the 2011-12 assessment roll:

PROPERTY STATEMENTS	TOTAL	SECURED VALUE	UNSECURED VALUE	TOTAL ASSESSED VALUE
Agricultural	576	\$42,669,216	\$18,867,521	\$61,536,737
Apartments	12	\$58,122	\$0	\$58,122
Other	456	\$0	\$14,614,744	\$14,614,744
Total	1,044	\$42,727,338	\$33,482,265	\$76,209,603

**Discovery**

The assessor utilizes various tools for discovering taxable business property. Methods of discovery include taxpayer self-reporting, periodic field canvassing, reviewing fictitious business name filings, real property appraiser referrals, city and county business licenses, landlord report of tenants, and business directory services. We found that the assessor employs acceptable methods for discovering business personal property.

**General Statement Processing**

The auditor-appraiser performs the majority of the BPS processing functions, with assistance from an assessment office specialist. The assessment office specialist date stamps and screens the statements for completeness and the inclusion of an authorized signature. BPSs that are submitted without an authorized signature are returned to the property owner, along with a letter indicating the reason for the statement's rejection. A copy of the statement is retained in the property owner's file until the signed copy is returned. Sufficiently completed BPSs are then forwarded to the auditor-appraiser for valuation. The auditor-appraiser inputs any changes to the database, such as the owner's name, Doing Business As (DBA), situs address, mailing address, and valuation adjustments.

We reviewed a sampling of several BPSs to verify the use of Board-prescribed forms, processing by noncertified staff, completeness of the BPSs, authorized signatures, application of penalties, coordination with the real property division, and record storage and retention. We found that all statements sampled evidenced the proper usage of Board-prescribed forms, contained sufficient detail, included proper signatures, and evidenced proper application of a penalty for late and non-filed statements as required by section 463.

**Filing Procedures**

Under section 441.5, in lieu of completing the property statement, information required of the taxpayer may be furnished to the assessor as attachments to the property statement provided that the attachments are in a format as specified by the assessor, and a copy of the actual property

statement is signed by the taxpayer and carries appropriate reference to the data attached. In Modoc County, the assessor allows taxpayers to submit the first page of the original BPS, signed with any attachments.

## Summary

Overall, the assessor's BPS program is effectively administered. The procedures in place are well structured and ensure that all property statements are properly reviewed, which creates a program in compliance with existing law.

### ***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. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581).

The assessor uses AH 581 to value assessable equipment. As recommended by the BOE, the maximum price index factor used in the assessor's calculations is the factor at the age equal to 125 percent of the average service life. The percent good factors used in the trend factor calculations are the BOE's equipment percent good factors published in AH 581.

We reviewed a variety of business equipment assessments, including gas station and convenience stores, banks, apartment houses, ranches and farms, equipment leasing companies, service businesses, and retail businesses. We found the assessor uses acceptable methods of valuing business equipment.

## Classification

Machinery and equipment must be classified as either personal property or fixtures (improvements), depending on whether the item is physically or constructively annexed to real property with the intent, as evidenced by outward appearance, that the item will remain annexed indefinitely. We found no problems in the classification of machinery and equipment.

## APPENDIXES

### A. County-Assessed Properties Division Survey Group

#### Modoc County

*Chief*

Dean Kinnee

*Survey Program Director:*

Mike Harris

Principal Property Appraiser

*Survey Team Supervisor:*

Sally Boeck

Supervising Property Appraiser

*Survey Team Leader:*

Ronald Louie

Supervising Property Appraiser

*Survey Team:*

Andrew Austin

Senior Specialist Property Appraiser

Robert Marr

Associate Property Appraiser

Jay Price

Associate Property Appraiser

Alan Dannen

Associate Property Auditor-Appraiser

Paula Montez

Associate Property Auditor-Appraiser

Gary Coates

Assistant Property Appraiser

## **B. Relevant Statutes and Regulations**

### **Government Code**

#### **15640. Survey by board of county assessment procedures.**

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

#### **15641. Audit of records; appraisal data not public.**

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

**15642. Research by board employees.**

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

**15643. When surveys to be made.**

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.

(d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

**15644. Recommendations by board.**

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

**15645. Survey report; final survey report; assessor's report.**

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

**15646. Copies of final survey reports to be filed with local officials.**

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

**Revenue and Taxation Code**

**75.60. Allocation for administration.**

(a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
- (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
  - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
  - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).

- (3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

### ***Title 18, California Code of Regulations***

#### **Rule 370. Random selection of counties for representative sampling.**

- (a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the ten largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.
- (b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.
  - (1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.
  - (2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.

- (3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) **ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS.** If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) **ADDITIONAL SURVEYS.** This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

**Rule 371. Significant assessment problems.**

(a) For purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
- (2) the sum of all the differences between the Board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:

- (1) Uniformity of treatment for all classes of property.
- (2) Discovering and assessing newly constructed property.
- (3) Discovering and assessing real property that has undergone a change in ownership.
- (4) Conducting audits in accordance with Revenue and Taxation Code section 469.
- (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code sections 421 et. seq.
- (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code sections 107 et. seq.

- (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
  - (8) Discovering and assessing property that has suffered a decline in value.
  - (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.
- (c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code section 75.60 and Government Code section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

## **ASSESSOR'S RESPONSE TO BOE'S FINDINGS**

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

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



# County of Modoc

"Where the West Still Lives"



Office of Assessor.....*Cheri Budmark*

Courthouse, 204 S. Court St., Rm 106  
Alturas, CA 96101-4064  
530/233-6218 Fax: 530/233-6237

May 2, 2013

RECEIVED  
MAY 09 2013  
County-Assessed Properties Division  
State Board of Equalization

Dean R. Kinnee, Chief  
County-Assessed Properties Division  
State Board of Equalization  
PO Box 942879  
Sacramento, CA 94279-0062

Dear Mr. Kinnee:

Pursuant to Section 15645 of the California Government Code, I am enclosing the Assessor's response to the Post Conference Draft, dated March 2013 and request that this response be included as part of the survey report.

I want to thank the entire survey team for their courteous and professional manner in conducting this survey. I would also like to acknowledge the staff of the Assessor's Office for their dedication, hard work, professionalism and commitment to serving the citizens of Modoc County.

I welcome the periodic review of the operations of this office. The constructive comments regarding our assessment practices are appreciated.

Sincerely,

*Cheri Budmark*

Cheri Budmark  
Assessor, Modoc County

Encl.

MODOC COUNTY  
Post Conference Draft – March 2013

Response to Recommendations

RECOMMENDATION 1: Develop written procedures that address conflicts of interest, and expand the written procedures that address economic interests and the assessment of staff-owned property.

We concur and have implemented this recommendation.

RECOMMENDATION 2: Properly grant the disabled person accessibility exclusion for new construction in compliance with section 74.3(d).

We concur and have implemented this recommendation.

RECOMMENDATION 3: Improve the decline-in-value assessment program by: (1) including all required information on the value change notice pursuant to section 619, and (2) annually reviewing all decline-in-value properties pursuant to section 51(e).

We concur and have implemented this recommendation

RECOMMENDATION 4: Improve the taxable possessory interest program by: (1) deducting allowed expenses from gross income when valuing taxable possessory interests by the direct income approach, (2) valuing taxable possessory interests at the airport with month-to-month tenancies in accordance with section 61(b)(2), (3) using proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests, (4) using the stated term of possession as the reasonably anticipated term of possession in accordance with Rule 21 when valuing taxable possessory interests, and (5) properly issuing supplemental assessments for taxable possessory interests

- (1) We concur and have implemented this recommendation
- (2) We concur and have implemented this recommendation
- (3) We concur and are taking steps to implement this recommendation
- (4) As the rights to these permits do not go out to bid, (they return to the holder), I believe Rule 21(d)(1) applies.
- (5) We concur and are taking steps to implement this recommendation

## **BOE COMMENTS TO ASSESSOR'S RESPONSE**

**RECOMMENDATION 4(4):** use the stated term of possession as the reasonably anticipated term of possession in accordance with Rule 21 when valuing taxable possessory interests.

**ASSESSOR'S RESPONSE:** As the rights to these permits do not go out to bid, (they return to the holder), I believe Rule 21(d)(1) applies.

**BOE COMMENTS:** The assessor appears to have made the judgment that the Forest Service practice of allowing existing permittees to renew their permits indefinitely is tantamount to a mutual understanding or agreement that, under Rule 21(d)(1), would allow the assessor to use a term of possession other than the stated term. Even assuming that judgment to be sound, however, the assessor's practice of annually establishing a new base year value is contrary to Revenue and Taxation Code section 61(b)(2), which provides that a renewal or extension during the reasonably anticipated term of possession used to value a possessory interest does not cause a change in ownership until the end of the reasonably anticipated term so used.

Thus, even if the assessor initially deems the term of possession for such a possessory interest to be 10 years, she should not establish a new base year value until the end of that 10-year term. Additionally, the assessor should document the rationale for her determination of the reasonably anticipated terms for these possessory interests.