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September 22, 1995

TO COUNTY ASSESSORS:

No. 95/54

ASSESSMENT APPEALS AND ROLL CORRECTIONS

Chapter 164 of the Statutes of 1995 (Assembly Bill 1620, copy enclosed) was signed by the Governor as an urgency statute and became effective July 24, 1995. Chapter 164 amended the following sections of the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation Code unless otherwise indicated) relating to assessment appeals:

1. §1621 to provide for a maximum of ten assessment appeals boards within a county effective until January 1, 1999.
2. §1637 to increase the value limitation on hearings held by an assessment hearing officer, for properties other than dwellings, from \$100,000 to \$500,000.
3. §4831 to permit roll corrections to reduce assessed values up to one year after the delivery of the roll, if the reduction is to reflect a decline in market value of real property.

Assessment Appeals Boards

Formerly §1621 provided that a county may have no more than five assessment appeals boards. Chapter 164 amends §1621 to provide for a maximum of ten assessment appeals boards within a county effective until January 1, 1999. After January 1, 1999, the maximum number of assessments appeals boards allowed within a county returns to five unless §1621 is amended to extend the sunset date.

Assessment Hearing Officer

Section 1637 provides that hearing officers may conduct equalization proceedings on any single family dwelling, condominium, or multi-family dwellings of four or less units. In addition, for all other property types, the authorization to conduct equalization proceedings was limited to property with a total assessed value not to exceed \$100,000. Chapter 164 amends §1637 to increase this assessed value limitation from \$100,000 to \$500,000.

Roll Corrections

Section 51(b) provides that when a property's market value falls below its factored base year value on March 1 for any reason, the assessor shall enroll the lower value for the ensuing fiscal year. However, once the assessment roll was completed and delivered to the auditor, the county

had no authority to independently change an enrolled assessment due to failure to enroll the lower value. After the roll was delivered, assessments resulting from failure to correctly enroll the §51(b) value could only be changed by the assessment appeals process.

Chapter 164 added subdivision (b) to §4831 (former subdivision (b) was renumbered as (c)) and reads:

"Any error or omission involving the exercise of a value judgment that arises solely from a failure to reflect a decline in the taxable value of real property as required by subdivision (b) of Section 51, may be corrected within one year after the making of the assessment that is being corrected."

This subdivision gives counties the authority to reduce assessed values, via a roll correction, within one year after the assessment roll is completed and delivered to the auditor. This new authority to reduce assessed values after delivery to the auditor is limited to those situations where the assessor failed to properly reflect a decline in the taxable value of the real property pursuant to §51(b). Since this one-year period to correct the 1994-95 roll has expired, this section is effective for the 1995-96 roll and thereafter.

The "making of an assessment" occurs when the assessor transmits the roll to the auditor and no longer has any control over it. It is at this point that the assessment is considered enrolled and the assessee has a right to appeal the enrolled assessment. See Letter to Assessors 94/32 (dated June 2, 1994) for further discussion of enrollment of an assessment.

If the assessor discovers after the roll has been turned over to the auditor that the current market value of a property should have been enrolled instead of the factored base year value, the assessor can now initiate a correction to the roll within one year after the roll was turned over to the auditor. For example, a taxpayer calls in November 1995 complaining that the 1995-96 enrolled value (factored base year value) of the property is too high. The assessor reviews the assessment and agrees with the taxpayer. The assessor now has one year from July 1, 1995 (assuming that was when the roll was turned over to the auditor) to initiate a correction to the 1995-96 roll under §4831(b) to reflect the property's current market value instead of the factored base year value. Since the correction will decrease the amount of taxes due or will require a refund if the taxes have been paid, the consent of the Board of Supervisors is necessary (see §4835).

Please note that the amendment to §4831 affects real property only, and only for §51(b) decline-in-value reductions. Value judgment errors involving manufactured homes or other personal property may not be corrected except through the assessment appeal process.

Related Legislation

Please note that Senate Bill 716 (Thompson, et al), which also similarly amends §4831, is also being considered by the Legislature this year. If this bill passes, it will become effective on January 1, 1996, and will supersede Chapter 164. We will inform you if this occurs.

TO COUNTY ASSESSORS

3

September 22, 1995

If you have any questions regarding this legislation or assessment appeals, please contact our Real Property Technical Services Section at (916) 445-4982.

Sincerely,

John W. Hagerty
Deputy Director
Property Taxes Department

JWH/grs

Enclosure

CHAPTER 164

An act to amend Sections 1637 and 4831 of, and to amend, repeal, and add Section 1621 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1995. Filed with
Secretary of State July 24, 1995]

LEGISLATIVE COUNSEL'S DIGEST

AB 1620, McDonald. Property taxation: assessment appeals.

Existing property tax law prohibits more than 5 assessment appeals boards from being created in any county.

This bill would increase this limit to 10 assessment appeals boards for any county. The provision increasing this limit would be repealed as of January 1, 1999.

Existing property tax law prohibits an assessment hearing officer, for any county in which the board of supervisors has not adopted a specified assessment appeal statute, from conducting a hearing on an application for reduction in an assessment if the total assessed value of the property in question does not exceed \$100,000.

This bill would increase this value limitation to \$500,000.

Existing property tax law generally authorizes the correction, subject to specified time requirements, of any error that results in an incorrect entry on the property tax roll, except for, among other things, an error that involves the exercise of value judgment.

This bill would authorize the correction of any error or omission involving the exercise of a value judgment that arises solely from a failure to reflect a decline in taxable value of property as required by a specified statutory provision to be made within one year after the making of the assessment that is to be corrected.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1621 of the Revenue and Taxation Code is amended to read:

1621. (a) Not more than 10 assessment appeals boards may be created within any county. Assessment appeals boards shall be designated by number in the ordinance providing for their creation.

(b) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 2. Section 1621 is added to the Revenue and Taxation Code, to read:

1621. (a) Not more than five assessment appeals boards may be created within any county. Assessment appeals boards shall be designated by number in the ordinance providing for their creation.

(b) This section shall become operative on January 1, 1999.

SEC 3. Section 1637 of the Revenue and Taxation Code is amended to read:

1637. (a) Hearings before an assessment hearing officer shall be conducted pursuant to the provisions of Article 1 (commencing with Section 1601) governing equalization proceedings by a county board of equalization or an assessment appeals board. The assessment hearing officer may conduct hearings on applications where all of the following apply:

(1) The applicant is the assessee and has filed an application under Section 1603.

(2) For counties in which the board of supervisors has not adopted the provisions of Section 1641.1, the total assessed value of the property under consideration, as shown on the current assessment roll, does not exceed five hundred thousand dollars (\$500,000); or the property under consideration is a single-family dwelling, condominium or cooperative, or a multiple-family dwelling of four units or less regardless of value.

(3) The applicant has requested that the hearing be held before an assessment hearing officer.

(b) In addition to subdivision (a), the board of supervisors may, by resolution, require the assent of the assessor to hearings before an assessment hearing officer in all cases in which the total assessed value on the current roll of the property under consideration exceeds a sum set by the resolution. However, that requirement shall not apply in cases involving owner-occupied residential property.

SEC. 4. Section 4831 of the Revenue and Taxation Code is amended to read:

4831. (a) Any error resulting in incorrect entries on the roll may be corrected under this article. The correction may be made at any time after the roll is delivered to the auditor but, except as provided in subdivision (b), shall be made within four years after the making of the assessment that is being corrected. This section does not apply to either of the following:

(1) Except as provided in subdivision (b), errors involving the exercise of value judgments.

(2) Escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with Section 441) of Chapter 3 of Part 2.

If any error referred to in this subdivision is discovered as the result of an audit of a taxpayer's books and records, that error may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of a value judgment that arises solely from a failure to reflect a decline in the taxable value of real property as required by subdivision (b) of Section 51, may be corrected within one year after the making of the assessment that is being corrected.

(c) Taxes which are not a lien or charge on the property assessed may be transferred from the secured roll to the unsecured roll of the corresponding year by the county auditor. These taxes shall be collected in the same manner as other delinquent taxes on the unsecured roll and shall be subject to delinquent penalties in the same manner as taxes transferred to the unsecured roll under Section 5090. The statute of limitations for the collection of those taxes shall commence to run from the date of transfer.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide timely and essential relief to those counties that are faced with fiscal and administrative crises as a result of unprecedented backlogs of pending property tax assessment appeals, it is necessary that this act take effect immediately.