



July 7, 2017

Honorable Jerome E. Horton
Member, State Board of Equalization
Chairman, Property Tax Committee
2361 Rosecrans Ave., #450
El Segundo, CA 90245

Re: Assessment appeals process - Intercounty uniformity

Dear Chairman Horton:

The California Alliance of Taxpayer Advocates (“CATA”) is a non-profit trade association made up of tax consultants representing taxpayers before County Assessors, The Franchise Tax Board and The State Board of Equalization (“Board”). CATA’s purpose is to protect the rights of state and local taxpayers by advancing the professional practice of state and local tax consulting through education, advocacy and high ethical standards.

To this end, the CATA board has some important concerns regarding the assessment appeals board (“AAB”) processes in the various counties.

We first wrote to you on September 28, 2016. In that letter, we laid out our concerns, as we do again below, and copied the California Assessors’ Association. The California Assessors’ Association responded asking that we work with them first to find a way to resolve these issues before seeking redress at the BOE. In our November 18, 2016, letter to you we promised to keep you apprised of our discussions with the California Assessors’ Association (CAA) regarding the three categories: (1) Information exchanges; (2) Improper rejection of appeal applications; and (3) Continuous hearing dates.

On Monday, December 19, 2016, we had what we thought was a fruitful conference call with the CAA, only to discover later weeks later, that the group of Assessors, that included CAA President Benson, was in fact not authorized to speak with us on the matter. Assessor Benson required that we send a formal letter to him in his capacity as the President of CAA requesting a meeting. We did so on March 2, 2017. The letter discussed CATA’s concerns and requested a representative of CATA be provided an opportunity to address the CAA Board at the CAA April meeting. Our objective was then, and is now, to develop a Letter to Assessors that will provide for uniform processes in counties statewide.

Assessor Benson responded that the matter would be taken up at the CAA meeting in April, but that we would not be permitted to address the CAA Board or any CAA sub-group.

In early May, Assessor Benson relayed to us that a group of Assessors had been organized to address this matter and that a meeting would be scheduled sometime in June. He declined to provide us a list of the Assessors making up this group. Despite repeated emails and phone calls to him to establish a meeting date, we received no response from him, or anyone else, other than the Assessors are busy and he is working on scheduling a meeting.

After 9 months, it is clear that CAA is either unwilling or unable to meet with CATA and that our initial efforts to petition the BOE was the correct path.

Upon your review of this letter and the attachment, we would like to have a brief call to determine how we may best proceed with the BOE.

The practices our members have observed are both unfair and inconsistent between counties. So, we are again writing to report these concerns to you and respectfully request that you exercise your authority to provide counties and taxpayers guidance and oversight under Government Code Section 15606, subdivision (c). Our concerns fall into three categories: (1) Information exchanges; (2) Improper rejection of appeal applications; and (3) Continuous hearing dates.

1. Information Exchanges

We are concerned about the manner in which various counties apply the information exchange procedures between taxpayers and assessors in local property tax assessment appeals. The basic framework for this administrative “discovery” is set forth in Revenue and Taxation Code Section 441. Subdivision (d) requires taxpayers to “make available for examination information or records regarding his or her property.” And subdivision (h) states that a taxpayer’s failure to provide this information while introducing it during an appeal hearing is grounds for a continuance for the assessor.

Based on input from our members, our objections are summarized as follows:

- Requests should be in writing—no verbal or oral Section 441(d) requests should be allowed or considered by the AAB.
- Overly broad requests that are not limited to information regarding the property in question.
- Assessors must not threaten to resort to the AABs to coerce taxpayer compliance.
- Failure by the Assessors to comply with providing taxpayers or their representatives information requested under Revenue & Taxation Code Section 408(e) (“relating to the appraisal and the assessment of the assessee’s property”).

- Assessors cannot demand a statement under penalty of perjury as to whether the taxpayer has or does not have the information, or whether the taxpayer has adequately responded to the information request.
- Assessors must make Section 441(d) requests at least two weeks prior to hearing. The information provided by the taxpayer or the taxpayer's agent should be held confidential as provided in Section 451.
- Assessor cannot use information obtained from one taxpayer under 441d and use the same information against a second or any other taxpayer in an assessment appeals board hearing without written authorization from the first taxpayer.
- AABs should not be able to dismiss an assessment appeal application at a pre-hearing conference, or otherwise, because the taxpayer has not responded to a Section 441(d) request. AABs cannot legally limit taxpayers' administrative rights and remedies and cannot dismiss applications for any perceived 441(d) violation.
- Assessors should not issue Section 441(d) requests that also threaten the taxpayer with criminal or administrative penalties for non-compliance within a particular time or if the response is deemed insufficient by the assessor.

2. Improper Rejection of Assessment Appeal Applications

Several counties have been unlawfully rejecting appeal applications based on incorrect interpretation of property tax statutes and regulations. Our objections are summarized as follows:

- County clerks cannot reject applications because of the false belief that agency authorizations must be signed by taxpayers in the same calendar year as the application was filed. While it is true that the agency authorizations must be signed and dated before the appeal applications are filed, California law does not require that they be signed in the same calendar year in which the applications are filed. In fact, agency authorizations can be signed in earlier years as long as they state that the agent is authorized to sign and file applications for the relevant roll years.
- The agency authorization rules must be clarified for processing on-line filings. For in-person filings, current rules require applicants to attach agency authorizations to their appeal applications. But these rules don't work for on-line filings, since there is no way to attach agency authorizations. The attempted application of this obsolete rule has been mixed, at best, and the results have hurt taxpayers.
- Standardized state-wide assessment appeal applications should be considered. Currently, each county develops their own forms based on state-wide guidelines; however, these forms vary county to county and result in accepted or rejected statuses depending upon the specific county.

3. Continuous hearing dates.

In some counties, the Assessor asks for indefinite postponement after the taxpayer presents its case-in-chief. This is obviously done to buy time to prepare for cross-examination, thus compromising taxpayers' due process rights. AABs should be required to make every reasonable effort to maintain continuous hearing dates. Delays longer than a week should require a showing of undue hardship on the part of the Assessor.

We appreciate the opportunity to voice the above concerns. Please note that we are open to working with the counties during this process—and with your help and guidance—to building consensus. Thanks in advance for your time and consideration.

Sincerely,



Mardiros H. Dakessian
President
California Alliance of Taxpayer Advocates

cc: Hon. Diane Harkey, Chair, State Board of Equalization
Hon. Fiona Ma, Chair, State Board of Equalization
Hon. George Runner, Member, State Board of Equalization
Hon. Betty T. Yee, State Controller
Rich Benson, President, California Assessors' Association