



January 19, 2018

Mr. David Yeung  
Chief, Property Tax Department - County Assessed Properties Division  
State Board of Equalization  
450 N Street  
Sacramento, CA 94279-0064

Dear Mr. Yeung,

Thank you for the opportunity to provide additional comments to the interested parties meeting pertaining to local property tax assessment and appeals procedures on December 18. We appreciate your facilitation of the meeting between taxpayer organizations and county assessors, and look forward to working with you on these and other issues.

Best regards,

A handwritten signature in black ink, appearing to read 'Therese Twomey'.

Therese Twomey  
Director of State Fiscal Policy  
California Taxpayers Association

Cc: Hon. Betty T. Yee, California State Controller  
Hon. Diane Harkey, State Board of Equalization  
Hon. George Runner, State Board of Equalization  
Hon. Jerome E. Horton, State Board of Equalization  
Hon. Fiona Ma, State Board of Equalization



**As of January 19, 2018**

**Comments to State Board of Equalization IPM – Local Property Tax Assessment and Appeals Procedures**

**General Observations:**

1. On December 18, 2017, the State Board of Equalization (BOE) moderated a meeting between representatives of taxpayer organizations and county assessors. The purpose of the meeting was to discuss concerns raised by taxpayers relative to local property tax assessment and appeal procedures – namely, the lack of uniformity among the 58 counties. We appreciate the BOE staff facilitating the meeting and the participation of the county assessors.

Discussion topics covered concerns beginning with Section 441(d) information requests and through the course of the appeals filing/hearing process. While the parties generally agree that greater clarity/specificity would be helpful, we differ in whether regulations or Letters to Assessors (LTAs) would be the more effective approach. Some assessors were concerned that the former would limit their autonomy.

LTAs and other non-binding guidelines serve certain purposes, but they are inadequate for addressing practices that, inadvertent or not, encroach upon the taxpayers' rights to due process, confidentiality and remedies. We believe fundamental issues such as these need to be addressed through a formal rulemaking process that institutes requisite regulatory assessment rules and practices, so taxpayers in all counties are afforded equal rights and remedies.

2. Non-binding guidelines generally have failed to achieve uniformity among the 58 counties.

In a recent example, assessors and taxpayers came together to promulgate guidelines for wind energy properties. The provisions were the result of mutual agreement by the parties, and the guidelines were adopted in June 2017. However, we are informed that six months later, a number of counties (including some that were part of the joint effort) have ignored the rules. Clearly, statewide uniformity cannot be accomplished if guidelines are voluntary.

We respectfully urge the BOE to commence a formal IPM and rulemaking process to promote uniform local assessment and appeal procedures so taxpayers in similar tax situations receive uniform, fair and equal tax treatment – regardless of their county of operations.

### **Specific Comments:**

There were a number of issues raised in a July 7, 2017 letter from the California Alliance of Taxpayer Advocates to BOE members. CalTax's specific comments and recommendations for regulatory amendments below relate to those issues.

1. Relative to Information Exchanges, we submit the following comments:

- a. The majority of Section 441(d) information requests for taxpayer information are submitted in writing. To ensure that taxpayers are appropriately notified of the request, and because information obtained therein will be presented as evidence in Assessment Appeals Board (AAB) hearings, we suggest regulations be amended to require that all Section 441(d) request be in writing.

Acknowledging that there may be need for flexibility, we suggest that the regulations could allow the taxpayer and assessor, by written mutual agreement, to waive the requirement for written communication under reasonable circumstances (i.e., to avoid a hearing delay/continuance).

- b. So taxpayers and assessors are better informed of their rights and responsibilities, we suggest regulations be amended to require a quasi-standardized Section 441(d) request form that (1) cites the appropriate statutes/provisions relative to taxpayers' and assessors' rights and responsibilities; (2) informs the taxpayer and the assessor that information obtained in a Section 441(d) request is confidential per Section 451; and (3) provides a narrative portion for assessors to inform taxpayers of the information/records being requested. A standardized format would help avoid misleading/threatening request letters.

We recommend that the requirements be stipulated in regulations, but that the form itself be promulgated in the assessors' handbook to facilitate any necessary updates.

- c. Currently, some counties refuse to provide taxpayers with information used to derive the appraisal and assessment of the taxpayer's property. It is critical that the taxpayer be provided this information in order to validate,

or invalidate an assessor's valuation. Withholding of this information places the taxpayer at an unfair disadvantage.

We suggest that regulations be amended to provide a process and timeline for assessors to provide the taxpayer, upon request, information relating to the appraisal and assessment of the taxpayer's property.

- d. Taxpayers sometimes receive 441(d) right before the scheduled appeals hearing or pre-hearing conference, without sufficient time to respond. This can result in hearing delays/continuances.

To ensure sufficient time for the parties to provide and review new facts, we suggest that regulations require all Section 441 (d) requests to be transmitted by a time period (i.e., two weeks or some other date) prior to a hearing. Furthermore, to provide flexibility, the regulations could allow the taxpayer and the assessor, by written mutual agreement, to agree to some other date or waive the requirement entirely.

- e. Revenue and Taxation Code Section 451 provides confidential protection for information provided in a Section 441(d). However it appears that some assessors are citing information relating to one taxpayer as evidence against a different taxpayer, without proper written authorization.

So assessors are better informed, we suggest that regulations reiterate the confidentiality provisions of Section 451 and that a standardized consent form be developed in the assessors' handbook.

2. Relative to Improper Rejection of Assessment Appeal Applications, we submit the following:

- a. It appears that some appeal applications have been rejected based on the perception that taxpayers are withholding information. Whether this is true or not, due process requires that taxpayers be afforded an opportunity before the AAB. If the AAB determines that there is insufficient information or the presented facts do not support the taxpayer's position, then the AAB will decide against the taxpayer.

To ensure due process, we suggest that regulations reaffirm that AABs are authorized to postpone a hearing for a reasonable period (i.e., two weeks or some other period), but not to dismiss an appeal application on the grounds that the taxpayer has not responded or has been unable to provide information requested.

- b. Some of the provisions related to in-person filings need to be updated to reflect procedures better suited to online filings (i.e., email communication/transmittal, electronic signatures, agency authorizations, etc.).

We suggest that taxpayers and assessors look to the Franchise Tax Board and other tax agencies as guides to identify methods by which assessors may be able to accelerate a transition to electronic communication and transmittal.