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No. 2020/022

May 4, 2020

TO COUNTY ASSESSORS:

**GUIDANCE ON ACCEPTING ELECTRONICALLY FILED
BUSINESS PROPERTY STATEMENTS AND OTHER DOCUMENTS**

Revenue and Taxation Code¹ section 441(a) provides that each person owning taxable personal property with an aggregate cost of \$100,000 or more for any assessment year is required to file a property statement with the County Assessor. In addition, the County Assessor may request any person who is not required to file a property statement to file a property statement within their county.

In 2002, Senate Bill 2092 (Chapter 775, Statutes 2002) amended section 441 and added subdivision (k) to allow Assessors to accept the filing of property statements through the use of electronic media. Electronic media, as defined under section 441(k), includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.

As previously advised in Letter To Assessors No. [2003/024](#), dated March 10, 2003, once an Assessor decides to accept electronically filed business property statements, the Assessor must then determine the types of electronic media that will be accepted. Next, a method to authenticate business property statements filed under that form of electronic media must be formulated. To *authenticate* is the act of proving that a document is true and genuine. The Assessor may use different methods of authentication for different types of electronic media.

As required under the provisions of section 441(k), property statements filed through the use of electronic media must be authenticated by methods specified by the Assessor and approved by the State Board of Equalization (BOE). Thus, if an Assessor chooses to accept electronically filed business property statements, the Assessor must submit procedures to authenticate those property statements to the BOE for approval.

For example, an Assessor may decide to accept the filing of business property statements by facsimile machine. The Assessor must then determine a method for authenticating business property statements filed in this manner, which can be as simple as requiring a cover sheet with the assessee's name and/or letterhead to accompany the faxed property statement. The method of authentication is then submitted by the Assessor to the BOE for approval.

¹ All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

For all other documents not provided for under section 441, an Assessor may choose to accept electronically filed documents under the provisions of Government Code section 16.5, as long as they have procedures in place to authenticate those documents. Under this authority, the Assessor is not required to seek approval of their authentication methods from the BOE. An Assessor's method of authentication should be dependent upon the type of electronic media being used and the contents and type of document being received.²

Government Code section 16.5(a) allows for any written communication with a public entity in which a signature is required, any party to the communication to affix a signature by use of a digital signature, and that digital signature will have the same force and effect as the use of a manual signature if it embodies all of the following attributes:

- (1) It is unique to the person using it.
- (2) It is capable of verification.
- (3) It is under the sole control of the person using it.
- (4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.
- (5) It conforms to regulations adopted by the Secretary of State...

Effective January 1, 2017, Assembly Bill 2296 (Chapter 144, Statutes 2016) amended Government Code section 16.5 and Civil Code section 1633.2 to clarify that a "digital signature" authorized by Government Code section 16.5 and subject to regulations adopted by the Secretary of State is one type of "electronic signature" that a public agency may choose to adopt under the Uniform Electronic Transactions Act.³ (*See Government Code section 16.5(d) and (e); and Civil Code section 1633.2(e), (g), and (h).*)

It should be noted that Government Code section 16.5(b) provides that the use or acceptance of a digital signature is at the option of the parties and it does not require a public entity to use or permit the use of a digital signature. Thus, an Assessor may elect to accept electronically filed documents, but they are not required to do so.

In summary, if an Assessor chooses to accept electronically filed business property statements, the Assessor must submit procedures to authenticate those property statements to the BOE for approval. For all other types of documents, an Assessor may elect to accept electronically filed documents if the provisions of Government Code section 16.5 and Civil Code section 1633.2 are met; however, BOE approval of procedures to authenticate those documents is not required.

Due to the Governor's stay-at-home order issued on March 19, 2020, it has become more difficult for taxpayers to file documents with a "wet" signature. Therefore, we strongly encourage each

² It should be noted that "other documents" does not include assessment appeals applications as provided for in section 1603, since electronically filed assessment appeal applications require the approval of authentication procedures through the county board of supervisors under section 1603(g).

³ Uniform Electronic Transactions Act – Title 2.5 of Part 2 of Division 3 of the Civil Code [sections 1633.1 through 1633.17].

County Assessor that has not yet decided to accept electronically filed documents to do so, and to submit, where necessary, their authentication procedures to the BOE as soon as possible.

To submit your request for approval of authentication procedures under the provisions of section 441(k) or to obtain additional information regarding this process, please contact Ms. Patricia Lumsden at 1-916-274-3383 or at Patricia.Lumsden@boe.ca.gov.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

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