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No. 2020/033

July 9, 2020

TO COUNTY ASSESSORS:

**AMENDMENT TO THE ASSESSMENT APPEALS MANUAL
– POSTPONEMENTS AND CONTINUANCES**

In order to create uniformity and equal treatment of taxpayers across the 58 California counties, the State Board of Equalization (BOE) engaged interested parties to amend the language in the Postponements and Continuances section of the BOE's *Assessment Appeals Manual*. This amended language (1) provides a more expansive discussion of the conditions under which postponements and continuances should be granted, and (2) strikes a balance between the due process rights of taxpayers and the resource limitations and time constraints of assessment appeals boards. Interested parties involved in this project included BOE staff, County Assessors and their staff, county counsels, county clerks of boards of supervisors, representatives of taxpayer advocacy groups, and members of the general public.

On May 27, 2020, the Board approved and adopted these amendments to the Postponements and Continuances section of the *Assessment Appeals Manual*. Please see the attachment for this amended section, which may also be viewed on pages 97 and 98 of the *Assessment Appeals Manual* located on the BOE's website at: <https://www.boe.ca.gov/proptaxes/pdf/aam2003final.pdf>. All documents related to this project are posted on the BOE's website at <https://www.boe.ca.gov/proptaxes/asmappealprocess.htm>.

If you have questions regarding this project or the amendments made to the Postponements and Continuances section of the *Assessment Appeals Manual*, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:acb
Attachment

POSTPONEMENTS AND CONTINUANCES

It is within the board's discretion to grant an extension of time before the commencement of a hearing on an application (a postponement) or after the commencement of a hearing on an application (a continuance). However, when such requests are not granted as a matter of right or have not been agreed to between the parties, the board should ensure that good cause exists to grant a postponement or continuance. In this regard, the reasonable needs of the county board of equalization or assessment appeals board or county hearing officer and the parties to the proceedings should be considered in determining whether to grant a postponement or continuance. The board should make every reasonable effort, however, to hold the hearing expeditiously.

The board may postpone or continue a hearing to allow an applicant time to comply with a request for information from the assessor or the board. However, serial continuances or postponements may not be granted where the board determines the information requested is unrelated to the issue or no responsive documents exist. Granting serial continuances or postponements in such instances could effectively deny an applicant a hearing on the merits of the case.

When an applicant's non-compliance to a request for information is at issue and a postponement or continuance is unlikely to result in the production of responsive information, the board, in most cases, should hold a hearing weighing the available evidence and the credibility of the testimony. If the board determines that the applicant has not provided all of the information required by law, the applicant will have the burden of proof.¹ The board may also continue or postpone a hearing to allow time necessary for the assessor or the board to issue a subpoena for the requested information, as well as any time necessary for related court proceedings.

POSTPONEMENTS

Postponements are extensions of time made before the hearing on an application has commenced. Rule 323, subsection (a), provides in part:

The applicant and/or the assessor shall be allowed one postponement as a matter of right, the request for which must be made not later than 21 days before the hearing is scheduled to commence.

If the applicant requests a postponement of a scheduled hearing within 120 days of the expiration of the two-year limitation period provided in section 1604, the postponement will be contingent upon the applicant agreeing to extend and toll indefinitely the two-year period. The applicant has the right to terminate the extension agreement upon 120 days written notice.

The assessor is not entitled to a postponement as a matter of right if the request is made within 120 days of the expiration of the two-year limitation period. However, the board, in its discretion, may grant such a request. The board may also grant a postponement for a reasonable

¹ Section 167(b). See also Rule 321(d).

period of time if one party initiates an information exchange and the other party does not comply within the time specified in section 1606 and Rule 305.1, subdivision (b).²

In addition, if the applicant or the applicant's agent is unable to attend a properly noticed hearing, the applicant or the applicant's agent may request, prior to the hearing date, a postponement of the hearing with a showing of good cause to the board.³

Requests for postponements beyond those that are a matter of right, whether by the applicant or the assessor, must be made in writing and good cause must be shown for the requested postponement. A mutual agreement between an applicant and the assessor shall be deemed to constitute good cause. Postponements granted because of a mutual agreement or other good cause shall result in extending and tolling indefinitely the two-year limitation period, subject to termination of the agreement upon 120 days written notice by the applicant.⁴

Any information exchange dates established pursuant to Rule 305.1 remain in effect based on the originally scheduled hearing date, notwithstanding the hearing postponement, except when a hearing is postponed due to the failure of a party to respond to an exchange of information.⁵

A board of supervisors may delegate decisions concerning postponement to the clerk in accordance with locally adopted rules.

CONTINUANCES

Continuances are extensions of time made after the hearing on an application has commenced. The board may, in its discretion, continue a hearing to a later date.⁶

If the hearing is continued, the clerk must notify both the applicant (or agent) and the assessor, in writing, of the time and place of the continued hearing. This notification must be made not less than 10 days prior to the date of the continued hearing, unless the parties agree in writing or on the record to waive written notice.⁷ The board may work with the parties to determine a mutually acceptable date for the next hearing.

If the applicant requests a continuance within 90 days of the expiration of the two-year limitation period provided in section 1604, the board may require a written extension signed by the applicant extending and tolling the two-year period indefinitely. The applicant has the right to terminate the extension agreement upon 120 days written notice.⁸

² Rule 305.1(d).

³ Rule 313(a).

⁴ Rule 323(a).

⁵ Rule 305.1(d).

⁶ Rule 323

⁷ Rule 323(c).

⁸ Rule 323(a).

There are five primary reasons for continuing a hearing:

- **Amendment of an application.** If the board grants an applicant's request to amend an application, upon request of the assessor the hearing on the matter shall be continued by the board for no less than 45 days, unless the parties mutually agree to a different period of time.⁹

- **Applicant has failed to provide all information required by law.** If an applicant has not yet provided all information required by law, the hearing may be continued to a later date for a hearing on the merits of the application or for the board to further inquire into the status of whether applicant has yet provided all information required by law.

If an applicant fails to provide information to the assessor pursuant to section 441(d) and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in section 1604(d) for a period of time equal to the length of the continuance.¹⁰

- **New information introduced at the hearing.** If new material relating to information received from the other party during an exchange of information under section 1606 is introduced, the other party may request a continuance for a reasonable period of time.¹¹

- **Inspection of assessor's records.** If the assessor fails to permit the inspection or copying of materials or information, as requested by the applicant pursuant to section 408(d) or (e), and the assessor introduces any such requested materials or information at any assessment appeals board hearing, the applicant may request a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in section 1604(c) for a period of time equal to the length of the continuance.¹²

- **Further information required by the board.** If, in the opinion of the board, not enough evidence was provided during the course of the hearing for the board to make a proper determination of value, the board may continue the hearing so that information the board believes is pertinent may be assembled and brought before it. A board should exercise caution in deciding that a continuance is warranted.

⁹ Rule 305(e)(2)(C)(iv).

¹⁰ Section 441(h).

¹¹ Rule 305.1(c).

¹² Section 408(f)(3).