ASSEMBLY BILL No. 964

Introduced by Assembly Member Jerome Horton
(Principal coauthor: Senator Ackerman)

February 18, 2005

An act to amend Sections 755, 756, and 1153 of, to amend, repeal, and add Sections 1152 and 1155 of, and to add Sections 100.51, 721.51, 721.52, and 828.1 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 964, as introduced, Jerome Horton. Property taxation: state assessment: commercial air carrier personal property.

The California Constitution requires the State Board of Equalization to assess specified properties owned by specified entities. Existing property tax law provides for the valuation of properties of a state assessee that owns property in more than one county. Existing law requires, upon a request by the board, that a state assessee submit a property statement, as provided, to the board pertaining to the property owned by the assessee. Existing law also provides, pursuant to specified formulas, for the application in each county of specified tax rates to the allocated assessed value of a state assessee's property, and for the allocation among jurisdictions in that county of the resulting revenues.

This bill would, commencing with the lien date for the 2006–07 fiscal year, require the board to assess taxable personal property that is owned by a commercial air carrier, as defined. This bill would authorize the board to audit these assessments as otherwise provided by law. This bill would also require the board to notify county assessors, as specified, if a commercial air carrier's taxable personal property includes fixtures that are to be locally assessed as real property. This bill would also require that the revenues derived from the assessment of this property be allocated in the same percentage shares as revenues derived from locally assessed property among the jurisdictions in which the property is located.

This bill also would, for the 2006–07 fiscal year and each fiscal year thereafter, establish a conclusive presumption that the full market value of certificated aircraft is its value derived using the original cost method of valuation. This bill would also authorize a county in which a certificated aircraft is located to challenge an assessment made by the board if the board uses a valuation method other than the original cost method, as provided. This bill would also require that original cost be determined by excluding from capital additions and modifications maintenance costs that are deductible for federal income taxation purposes pursuant to a specified federal administrative ruling. This bill would also require that if the original cost of a leased aircraft is determined by reference to a specified publication, the prices in that publication with respect to that aircraft be reduced by a fleet discount, as defined, if the lessor purchased more than one aircraft in a single transaction. With respect to certain aircraft that are out of production, this bill would authorize a taxpayer and the board to mutually agree to determine the value of these aircraft as referenced in a specified publication.

Existing law establishes the State-County Property Tax Administration Grant Program which, for the 2002–03 fiscal year to the 2006–07 fiscal year, inclusive, provides grants, upon an appropriation by the Legislature in the annual Budget Act, to electing counties to assist them in funding property tax administration costs. This program sets forth a grant amount for each county in a specified schedule.

This bill would require the Department of Finance to make appropriate adjustments to the funding available to counties under this program to provide the board with revenues to administer the bill's provisions.

This bill would also make conforming changes to existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 100.51 is added to the Revenue and Taxation Code, to read:

100.51. Notwithstanding any other provision of law, for the 2006–07 fiscal year and each fiscal year thereafter, all of the following apply:

(a) The property tax assessed value of taxable personal property that is owned by a commercial air carrier, as defined in Section 721.51, and that is assessed by the State Board of Equalization, shall be allocated entirely to that tax rate area in the county in which the property is located.

(b) The tax rate applied to the assessed value allocated pursuant to subdivision (a) shall be the rate calculated pursuant to Section 93.

(c) The revenues derived from the application of the tax rate to the assessed value allocated to a tax rate area pursuant to subdivision (a) shall be allocated among the jurisdictions in that tax rate area, in those same percentage shares that property tax revenues derived from locally assessed property are allocated to those jurisdictions in that tax rate area, subject to any allocation and payment of funds as provided in subdivision (b) of Section 33670 of the Health and Safety Code, and subject to any modifications or adjustments pursuant to Sections 99 and 99.2.

SEC. 2. Section 721.51 is added to the Revenue and Taxation Code, to read:

721.51. (a) Notwithstanding any other provision of law, commencing with the lien date for the 2006–07 fiscal year, the board shall annually assess all taxable personal property that is owned, claimed, possessed, used, controlled, or managed by a commercial air carrier as defined in subdivision (b).

(b) (1) For purposes of this section, "commercial air carrier" means an air carrier or foreign air carrier engaged in air transportation as defined in Section 1150.

(2) Certificated aircraft owned or used by a commercial air carrier shall be assessed in a manner consistent with the procedures set forth in Article 6 (commencing with Section 1150) of Chapter 5 of Part 2 that determines the extent that the certificated aircraft is physically present in each county within this state.

(c) The board may audit a commercial air carrier as otherwise provided by law.

(d) The Department of Finance shall make appropriate adjustments to the State-County Property Tax Administration Grant Program set forth in Section 95.35 to provide the board with the revenues necessary for the board to administer this section.

SEC. 3. Section 721.52 is added to the Revenue and Taxation Code, to read:

721.52. (a) (1) For the 2006–07 fiscal year and each fiscal year thereafter, certificated aircraft shall be conclusively presumed to be valued at full market value if all of the following conditions are met:

(A) Except as provided in subparagraph (D), value is derived using original cost, which original cost shall be the greater of the following:

(i) The taxpayer's cost for that individual aircraft reported in accordance with generally accepted accounting principles, so long as that produces net acquisition cost, and to the extent not included in the taxpayer's cost, transportation costs and capitalized interest and the cost of any capital addition or modification. For purposes of this clause, a capital addition or modification does not include maintenance costs that are deductible for federal income tax purposes in accordance with Internal Revenue Service Revenue Ruling 2001–4.

(ii) The taxpayer's cost as established pursuant to this subdivision, plus one-half of the incremental difference between the taxpayer's cost and the cost established in a sale/leaseback or assignment of purchase rights transaction for individual aircraft that transfers the benefits and burdens of ownership to the lessor for United States federal income tax purposes.

If the original cost for leased aircraft cannot be determined from information reasonably available to the taxpayer, including information obtained from the lessor of the leased aircraft, original cost may be determined by reference to the "average new prices" column of the Airliner Price Guide for that model, series, and year of manufacture of aircraft. If, in a single transaction, the lessor purchased more than one unit of the model, series, and year of manufacture of an aircraft for which the Airliner Price Guide is used to determine original cost of the aircraft as described in the preceding sentence, the “average new price” of each of those aircraft shall be reduced by a fleet discount, as defined in subdivision (d). If information is not available in the “average new prices” column for that model, series, and year, the original cost may be determined using the best indicator of original cost plus all conversion costs incurred for that aircraft. In the event of a merger, bankruptcy, or change in accounting methods by the reporting airline, there shall be a rebuttable presumption that the cost of the individual aircraft and the acquisition date reported by the acquired company, if available, or the cost reported prior to the change in accounting method, are the original cost and the applicable acquisition date.

(B) Original cost, plus the cost of any capital additions or modifications not otherwise included in original cost, shall be adjusted from the date of the acquisition of the aircraft to the lien date using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner, or, in the case of a sale/leaseback or assignment of purchase rights, as described in this section, the current operator with a minimum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to subparagraph (C), in which case the minimum value may be used. If original cost is determined by reference to the Airliner Price Guide “average new prices” column, the adjustments required by this subparagraph shall be made by setting the acquisition date of the aircraft to be the date of the aircraft’s manufacture.

(C) For certificated aircraft of a model and series that has been in revenue service for eight or more years, the minimum value may not exceed the average of the used aircraft prices shown in columns other than the “average new prices” column for used aircraft of the oldest aircraft for that model and series in the Airliner Price Guide most recently published as of the lien date. Minimum values may not be utilized for certificated aircraft of a model and series that has been in revenue service for fewer than eight years.

(D) For out-of-production aircraft that were recommended to be valued by a market approach for 1998 by the California

Assessors' Association, their assessments shall be based at the lower of the following:

(i) The values established by the association for the 1998 lien date.

(ii) The average of the used aircraft prices shown in the columns other than the "average new prices" column for used aircraft of the five oldest years for the aircraft model and series or that lesser time for which data is available in the Airliner Price Guide.

(E) Notwithstanding any other provision of law, upon mutual agreement between a taxpayer and the State Board of Equalization, out-of-production aircraft, other than those described in subparagraph (D), may be assessed using the average of the used aircraft prices shown in the columns other than the "average new prices" column for used aircraft of the five oldest years for the aircraft model and series or that lesser time for which data is available in the Airliner Price Guide.

(2) Notwithstanding paragraph (1), in computing assessed value, the State Board of Equalization may allow for extraordinary obsolescence if supported by market evidence or other documentation, and the taxpayer may challenge the assessment for failure to allow for this obsolescence. To constitute market evidence or other documentation of extraordinary obsolescence and to permit an assessment appeal, the evidence shall demonstrate that the functional obsolescence, the economic obsolescence, or a combination of both, is in excess of 10 percent of the value for the aircraft model and series otherwise established pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1).

(3) For purposes of paragraph (1), if the Airliner Price Guide ceases to be published or the format significantly changes, a guide or adjustment agreed to by the airlines and the taxing counties shall be substituted.

(b) To calculate the values prescribed in subdivision (a), the taxpayer shall, to the extent that information is reasonably available to the taxpayer, furnish the State Board of Equalization with an annual property statement that includes the aircraft original costs as defined in subparagraph (A) of paragraph (1) of subdivision (a). If an air carrier that has this information reasonably available to it fails to report original cost and additions as required by this subdivision, the State Board of Equalization shall, based upon the information in its possession, estimate the value of the certificated aircraft and, based upon this value, promptly assess that aircraft.

(c) Notwithstanding any other provision of law, any assessment of certificated aircraft, owned or operated by a commercial air carrier as defined in Section 721.51, that is made by the State Board of Equalization in a manner that is contrary to the requirements of this section may be challenged in the Superior Court for the County of Sacramento by a county in which the certificated aircraft is located.

(d) For purposes of this section, a "fleet discount" means a percentage reduction in price, equal to the percentage of the price listed in the Airliner Price Guide that is represented by the product of the following two amounts, not to exceed 0.2:

(1) 0.005.

(2) The number of aircraft of that model, series, and year leased by the operator from the lessor.

SEC. 4. Section 755 of the Revenue and Taxation Code is amended to read:

755. (a) On or before July 15, the board shall transmit to each county auditor an estimate of the total unitary value and operating nonunitary value of state-assessed property in the county and of nonunitary state-assessed property in each revenue district in the county. An estimate need not be made for a revenue district that did not levy a tax or assessment during the preceding year unless the board receives on or before January 1 preceding the fiscal year for which the levy is to be made a notice in writing of the proposed levy. The estimate shall be regarded as establishing the total assessed value of state-assessed property in the county and each revenue district in the county for the purpose of determining tax rates, subject only to those changes as may be transmitted on or prior to July 31. All information furnished pursuant to this section is at all times during office hours open to inspection by any interested person or entity.

(b) Notwithstanding subdivision (a), in making the estimate referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies and property subject to subdivisions (i), (j), and (k) of Section 100, *Section 100.9, or Section 100.51* shall be allocated by revenue district.

SEC. 5. Section 756 of the Revenue and Taxation Code is amended to read:

756. (a) On or before July 31, the board shall transmit to each county auditor a roll showing the unitary and operating nonunitary assessments made by the board in the county and the nonoperating nonunitary assessments made by the board in each city and revenue district in the county; provided, however, that the roll need not show the assessments made by the board in a revenue district ~~which~~ *that* did not levy a tax or assessment during the preceding year. The roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131. If the roll does not show the assessments in a revenue district as herein provided and a notice of a proposed levy is furnished the board in writing, on or before January 1 preceding the fiscal year for which the levy is to be made, the board shall furnish an estimate of the total assessed value of nonoperating nonunitary state-assessed property in the district and shall transmit thereafter to the county auditor a statement of roll change showing the nonoperating nonunitary assessments made by the board in the district.

(b) Notwithstanding subdivision (a), in making the roll referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies and property subject to subdivisions (i), (j), and (k) of Section 100*, Section 100.9, or Section 100.51* shall be enrolled by revenue district.

SEC. 6. Section 828.1 is added to the Revenue and Taxation Code, to read:

828.1. (a) All of the following apply to a property statement submitted by a commercial air carrier:

(1) Personal property located in this state, other than certificated aircraft, shall be reported by reference to the tax rate area in order to allocate assessed value by tax rate area as required by Section 100.51.

(2) Information related to certificated aircraft that normally make physical contact in counties shall be reported in the form prescribed by the board.

(b) If a commercial air carrier's property statement includes fixtures that are to be locally assessed as fixtures, the board shall provide information regarding the fixtures to the county assessor for the county in which the fixtures are located.

SEC. 7. Section 1152 of the Revenue and Taxation Code is amended to read:

1152. The allocation formula to be used by each assessor is as follows:

(a) The time-in-state factor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during a representative period as compared to the total time in the representative period. For purposes of this subdivision, all time, both in the air and on the ground, that certificated aircraft have spent within the state prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date shall be excluded from the time-in-state factor. This factor shall be multiplied by 75 percent.

(b) The arrivals and departures factor is the proportionate number of arrivals in and departures from airports within the state of certificated aircraft during a representative period as compared to the total number of arrivals in and departures from airports during the representative period. This factor shall be multiplied by 25 percent.

(c) For the 1983–84 fiscal year and fiscal years thereafter, in computing the time-in-state factor, on each occasion during the representative period that a certificated aircraft has spent 720 or more consecutive hours on the ground, all ground time in excess of 168 hours shall be excluded from the time in state attributable to that aircraft.

(d) The time-in-state factor shall be added to the arrivals and departures factor.

(e) The figure produced by application of subdivision (d) equals the allocation to be applied to full cash value to determine the value to which the assessment ratio shall be applied.

(f) This section shall remain in effect only until July 1, 2006, and as of that date is repealed.

SEC. 8. Section 1152 is added to the Revenue and Taxation Code, to read:

1152. The allocation formula to be used by the board is as follows:

(a) The time-in-state factor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during a representative period as compared to the total time in the representative period. For purposes of this subdivision, all time, both in the air and on the ground, that certificated aircraft have spent within the state prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date shall be excluded from the time-in-state factor. This factor shall be multiplied by 75 percent.

(b) The arrivals and departures factor is the proportionate number of arrivals in and departures from airports within the state of certificated aircraft during a representative period as compared to the total number of arrivals in and departures from airports during the representative period. This factor shall be multiplied by 25 percent.

(c) For the 2006–07 fiscal year and for each fiscal year thereafter, in computing the time-in-state factor, on each occasion during the representative period that a certificated aircraft has spent 720 or more consecutive hours on the ground, all ground time in excess of 168 hours shall be excluded from the time in state attributable to that aircraft.

(d) The time-in-state factor shall be added to the arrivals and departures factor.

(e) The figure produced by application of subdivision (d) equals the allocation to be applied to full cash value to determine the value to which the assessment ratio shall be applied.

(f) This section shall become operative on July 1, 2006.

SEC. 9. Section 1153 of the Revenue and Taxation Code is amended to read:

1153. After consulting with the assessors of the counties in which aircraft of an air carrier normally make physical contact, the board shall designate for each assessment year the representative period to be used ~~by the assessors~~ in assessing the aircraft of the carrier.

SEC. 10. Section 1155 of the Revenue and Taxation Code is amended to read:

1155. *(a)* For purposes of Section 404, certificated aircraft shall be deemed to be situated only in those taxing agencies in which the aircraft normally make physical contact with sufficient regularity to entitle ~~such~~ *the* agencies to tax the aircraft under the laws and Constitution of the United States. Flight time within the state shall be allocated as follows:

~~(a)~~

(1) If the aircraft takes off in one taxing agency ~~which~~ *that* is entitled to tax (within the meaning of the preceding sentence) and lands in another agency ~~which~~ *that* is entitled to tax, the flight time between ~~such~~ *the two* taxing agencies shall be allocated one-half to each ~~such~~ agency.

~~(b)~~

(2) If the aircraft arrives from out of state or leaves the state, the flight time from or to the state boundary shall be allocated to the taxing agency entitled to tax in which the aircraft first lands or last takes off, as the case may be.

(b) This section shall remain in effect only until July 1, 2006, and as of that date is repealed.

SEC. 11. Section 1155 is added to the Revenue and Taxation Code, to read:

1155. (a) For purposes of Section 100.51, certificated aircraft shall be deemed to be situated only in those tax rate areas in which the aircraft normally make physical contact with sufficient regularity to entitle that tax rate area to the assessed value of the aircraft under the laws and Constitution of the United States. Flight time within the state shall be allocated as follows:

(1) If the aircraft takes off in one tax rate area that is entitled to the assessed value of the aircraft and lands in another tax rate area that is entitled to the assessed value of the aircraft, the flight time between the two tax rate areas shall be allocated one-half to each of the two tax rate areas.

(2) If the aircraft arrives from out of state or leaves the state, the flight time from or to the state boundary shall be allocated to the tax rate area entitled to the assessed value of the aircraft in which the aircraft first lands or last takes off, as the case may be.

(b) This section shall become operative on July 1, 2006.

CORRECTIONS:

Corrections-Heading-Line 2. Text-Pages 2, 4, 5, 6, and 9.

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