

Assembly Bill No. 550

CHAPTER 297

An act to amend Section 469 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 2008. Filed with Secretary of State September 25, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 550, Ma. Property taxation: business property: audit.

Existing property tax law requires the county assessor to audit the books and records of a profession, trade, or business at least once every 4 years in the case of a taxpayer engaged in a profession, trade, or business that is not fully exempt from property taxation and that owns, claims, possesses, or controls locally assessable trade fixtures and business tangible property with a full value of at least \$400,000.

This bill would delete the requirement that a taxpayer own, claim, possess, or control locally assessable trade fixtures and business tangible property with a full value of at least \$400,000 in order to be audited. This bill would require the county assessor to annually conduct a significant number of audits, as specified, to encourage accurate and proper reporting. This bill would require 50% of the required audits, as specified, to be performed on those taxpayers that have the largest assessments of locally assessable trade fixtures and business tangible personal property in the county, as provided.

By changing the manner in which county assessors audit the books and records of taxpayers engaged in a profession, trade, or business, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Businesses having an aggregate cost of one hundred thousand dollars (\$100,000) or more in personal property are required to file annually a statement with the assessor identifying the property to facilitate its proper and uniform assessment.

(b) Existing law requires assessors to conduct audits to encourage accurate reporting.

(c) Therefore, it is the intent of the Legislature in enacting this act to provide assessors with discretion in selecting which business taxpayers to audit, thereby adding an element of unpredictability to the audit process and ultimately advancing the policy goals of the audit process, and furthering the constitutional requirement of equal and uniform assessment.

SEC. 2. Section 469 of the Revenue and Taxation Code is amended to read:

469. (a) The assessor shall annually conduct a significant number of audits of the books and records of taxpayers engaged in a profession, trade, or business who own, claim, possess, or control locally assessable trade fixtures and business tangible personal property in the county to encourage the accurate and proper reporting of property as required by this article. The assessor shall conduct an audit of those taxpayers as provided by subdivision (b).

(1) For purposes of this section, “significant number of audits” means at least 75 percent of the fiscal year average of the total number of audits the assessor was required to have conducted during the 2002–03 fiscal year to the 2005–06 fiscal year, inclusive, on those taxpayers in the county that had a full value of four hundred thousand dollars (\$400,000) or more of locally assessable trade fixtures and business tangible personal property.

(2) The assessor is not required to audit a taxpayer that is fully exempt from property taxation under other provisions of law for purposes of the requirements of this section.

(3) If the board audits a taxpayer because the taxpayer’s assessment was selected in a sampling of assessments from the local assessment rolls pursuant to Section 15640 of the Government Code, that audit may be deemed an audit by the assessor for purposes of the requirements of this section.

(b) Each year the audits required by subdivision (a) shall be conducted in the following manner:

(1) Fifty percent of the audits required by subdivision (a) shall be performed on taxpayers selected from a pool of those taxpayers that have the largest assessments of locally assessable trade fixtures and business tangible personal property in the county.

(A) This pool of taxpayers shall be determined as follows:

(i) The assessor shall rank all of the taxpayers in the county in descending order by the total locally assessed value of both trade fixtures and business tangible personal property.

(ii) The assessor shall select a qualified number of those taxpayers with the largest assessments for inclusion in the pool. The qualified number shall be that number equal to 50 percent of the audits required by subdivision (a) multiplied by four.

(B) Taxpayers in the pool shall be audited at least once within each four-year period following the latest fiscal year covered by a preceding audit and the audit may combine multiple fiscal years. The assessor is relieved

of the requirement to audit the taxpayer at least once every four years if the assessor determines that the taxpayer's assessments are no longer large enough for inclusion in the pool.

(2) The remaining 50 percent of the required audits, as determined by paragraph (1) of subdivision (a), shall be selected in a manner that is fair and equitable to all taxpayers and may be based on evidence of underreporting as determined by the assessor.

(3) Nothing in this subdivision is intended to prohibit the audit of any taxpayer more frequently than once every four years.

(c) With respect to any audit of the books of a profession, trade, or business, regardless of the full value of the trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by the taxpayer, the following shall apply:

(1) Upon completion of an audit of the taxpayer's books and records, the taxpayer shall be given the assessor's findings in writing with respect to data that would alter any previously enrolled assessment.

(2) Equalization of the property by a county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division shall not preclude a subsequent audit and shall not preclude the assessor from levying an escape assessment in appropriate instances, but shall preclude an escape assessment being levied on that portion of the assessment that was the subject of the equalization hearing.

(3) If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those instances when the property had previously been equalized for the year in question.

(4) If the audit for any particular tax year discloses that the property of the taxpayer was incorrectly valued or misclassified for any cause, to the extent that this error caused the property to be assessed at a higher value than the assessor would have entered on the roll had the incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification, and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 and 5096.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.