

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 832

Introduced by Assembly Member Ammiano

February 17, 2011

An act to ~~amend Section 995 of~~ *add Section 995.3* to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 832, as amended, Ammiano. Property taxation: storage media for computer programs.

Existing law requires storage media for computer programs to be valued on the 1972 lien date and thereafter as if there were no computer program on the media except basic operational programs, and otherwise prohibits the valuation of computer programs for the purpose of property taxation. *Existing law defines basic operational programs to mean, for purposes of the taxation of storage media for computer programs, a computer program that is fundamental and necessary to the functioning of a computer, and that is a part of an operating system that consists of the control program elements of that system. Existing regulations of the State Board of Equalization provide that a program is included in the sale or lease price of computer equipment if, among other things, the equipment and the program are sold or leased at a single price, and authorizes the county assessor, in valuing computer equipment that is sold or leased at a single price, lacking evidence to the contrary, to regard the total amount charged as indicative of the value of taxable tangible property. Existing regulations require a person claiming that a single price sale or lease includes charges for nontaxable programs, to identify the nontaxable programs and supply specified information*

to enable the county assessor to make an informed judgment concerning the proper value to be ascribed to taxable and nontaxable programs.

This bill generally would ~~make technical, nonsubstantive changes to this provision~~ codify a portion of a regulation of the State Board of Equalization, and also would require a person claiming that a single price sale or lease includes charges for nontaxable programs and services to prove, by clear and convincing evidence, the existence of nontaxable programs and services and the sales price, costs, or other information regarding the nontaxable programs and services.

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

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

1 SECTION 1. Section 995.3 is added to the Revenue and
 2 Taxation Code, to read:
 3 995.3. (a) The term “basic operational program” refers to a
 4 “control program” as defined in Section 995.2 that is included in
 5 the sale or lease price of the computer equipment. A program is
 6 included in the sale or lease price of the computer equipment if
 7 either of the following are met:
 8 (1) The equipment and the program are sold or leased at a
 9 single price.
 10 (2) The purchase or lease documents set forth separate prices
 11 for the equipment and the program, but the program may not be
 12 accepted or rejected at the option of the customer.
 13 (b) In valuing computer equipment that is sold or leased at a
 14 single price not segregated between taxable property and
 15 nontaxable programs as defined in Section 995.2, the county
 16 assessor, lacking evidence to the contrary, may regard the total
 17 amount charged as indicative of the value of taxable tangible
 18 personal property.
 19 (c) A person claiming that a single price sale or lease includes
 20 charges for nontaxable programs and services shall have the
 21 burden of proving, by clear and convincing evidence, the existence
 22 of nontaxable programs and services and the sales price, costs,
 23 or other information regarding the nontaxable programs and
 24 services that will assist the county assessor in making an informed
 25 judgment regarding the proper value to be ascribed to taxable and
 26 nontaxable property.

1 SECTION 1. ~~Section 995 of the Revenue and Taxation Code~~
2 ~~is amended to read:~~

3 ~~995. Storage media for computer programs shall be valued on~~
4 ~~the 1972 lien date and thereafter as if there were no computer~~
5 ~~program on the media except basic operational programs.~~
6 ~~Otherwise, computer programs shall not be valued for purpose of~~
7 ~~property taxation.~~

8 ~~As used in this section, storage media for computer programs~~
9 ~~may take the form of, but are not limited to, punched cards, tapes,~~
10 ~~disks or drums on which computer programs may be embodied or~~
11 ~~stored.~~

12 ~~As used in this section, a computer program may be, but is not~~
13 ~~limited to, a set of written instructions, magnetic imprints, required~~
14 ~~documentation or other process designed to enable the user to~~
15 ~~communicate with or operate a computer or other machinery.~~