

AMENDED IN SENATE JUNE 11, 1998
AMENDED IN ASSEMBLY APRIL 30, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2318

Introduced by Assembly Member Knox

February 19, 1998

An act to add Section 107.9 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2318, as amended, Knox. Property taxation: airline property and possessory interests.

Existing property tax law provides that all property is subject to taxation at its full value, unless that property is otherwise exempted from taxation in whole or in part pursuant to either state or federal law.

This bill would, ~~pursuant to legislative findings and declarations,~~ *specify that a certain, additional taxable possessory interest is conferred upon an operator of certificated aircraft at a publicly-owned airport. This bill would also provide, for the 1998–99 fiscal year and each fiscal year thereafter, that all taxable real property rights of an operator of certificated aircraft at a publicly owned airport, except as specified, shall be presumed to be valued and assessed at its full cash value only if the assessor follows the*

applicable, specified income approach in determining the assessed value of that property.

This bill would declare that it is to take effect immediately as an urgency statute, but would become operative only if AB 1807 takes effect on or before January 1, 1999.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 ~~SECTION 1. (a) The Legislature finds and declares~~
2 ~~all of the following:~~

3 ~~(1) As a result of both ambiguities in the law and~~
4 ~~conflicts between regulations and court decisions, one of~~
5 ~~the most difficult and contentious property tax~~
6 ~~assessment issues in recent years has been the assessment~~
7 ~~of the real property rights, other than interests in~~
8 ~~terminal, cargo, hangar, or other site-specific~~
9 ~~responsibilities, of operators of certificated aircraft at~~
10 ~~publicly owned airports.~~

11 ~~(2) These ambiguities and conflicts have given rise to~~
12 ~~litigation and appeals challenging assessments involving~~
13 ~~tens of millions of dollars of property tax revenues.~~

14 ~~(3) The uncertainty created by pending litigation and~~
15 ~~appeals is disruptive to both airline industry tax planning~~
16 ~~and local government and school finance.~~

17 ~~(b) It is the intent of the Legislature in enacting this~~
18 ~~act to facilitate resolution of the disputes over the~~
19 ~~assessment of the real property rights, other than~~
20 ~~interests in terminal, cargo, hangar, or other site-specific~~
21 ~~facilities, of the operators of certificated aircraft by~~
22 ~~codifying recommendations, produced by a county and~~
23 ~~airline industry working group, that:~~

24 ~~(1) Dispose of all outstanding litigation and appeals~~
25 ~~over assessments on the real property rights, other than~~
26 ~~interests in terminal, cargo, hangar, or other site-specific~~
27 ~~facilities, of the operators of certificated aircraft at~~
28 ~~publicly owned airports.~~

29 ~~(2) Define the right to assess, and method of assessing,~~
30 ~~the real property rights, other than interests in terminal,~~



1 cargo, hangar, or other site-specific facilities, of the
2 operators of certificated aircraft at publicly owned
3 airports.

4 (3) Clearly establish a presumption of correctness if
5 county assessors follow the assessment guidelines
6 established in this act.

7 SEC. 2. Section 107.9 is added to the Revenue and
8 Taxation Code, to read:

9 107.9. (a) Notwithstanding any other provision of
10 law or administrative rule or regulation to the contrary,
11 commencing with the assessments for the 1998-99 fiscal
12 year, all taxable real property rights of the operator of
13 certificated aircraft at a publicly owned airport, except
14 for the operator's interests in terminal, cargo, hangar, or
15 other site-specific facilities, shall be presumed to be
16 assessed at full cash value for these rights only if the
17 assessor uses the following direct income approach in
18 capitalizing net economic rent:

19 (1) One-half of the landing fees used to calculate the
20 1996-97 assessment for airfield areas, other than terminal,
21 cargo, hangar, or other other site-specific facilities, shall
22 be deemed to be the economic rent. The landing fee rate
23 used to calculate the 1996-97 assessment shall be annually
24 adjusted in accordance with the percentage change,
25 rounded to the nearest one-thousandth of 1 percent, from
26 October of the prior fiscal year to October of the current
27 fiscal year in the California Consumer Price Index for all
28 items, as determined by the California Department of
29 Industrial Relations, except that in no instance shall this
30 adjusted rate exceed the airport's actual budgeted
31 landing fee rate for the last full fiscal year. The economic
32 rent shall also be adjusted in proportion to the increase or
33 decrease in the aggregate weight of landings by the
34 operator for the last full fiscal year at each airport in the
35 taxing county. This paragraph shall be applied to a new
36 operator in the same manner as it would be applied to a
37 similarly situated operator.

38 (2) The expense ratio shall be the ratio used by each
39 county for the 1996 property tax lien date.



1 ~~(3) The capitalization rates shall not exceed or be less~~
2 ~~than the rates used by each county for the 1996 lien date,~~
3 ~~except as may be annually adjusted in proportion to the~~
4 ~~changes in the 11th District Cost of Funds.~~

5 ~~(4) The term of possession for each operator, not to~~
6 ~~exceed a maximum term of 20 years, shall be the term~~
7 ~~used by each county to calculate the 1996-97 assessment.~~
8 ~~Upon a change of ownership, the term of possession shall~~
9 ~~be the actual term stated in a written agreement,~~
10 ~~provided that the term shall not be less than 10 years or~~
11 ~~more than 15 years.~~

12 ~~(b) Notwithstanding subdivision (a), in a county in~~
13 ~~which landing fees were not used to calculate the 1996-97~~
14 ~~assessment, the county shall benefit from the~~
15 ~~presumption of correctness set forth in subdivision (a)~~
16 ~~only if the assessor uses the following direct income~~
17 ~~approach in capitalizing net economic rent:~~

18 ~~(1) The assessor performs the calculations required in~~
19 ~~subdivision (a) by using the assessment that would have~~
20 ~~been derived in the 1996-97 fiscal year had the assessor~~
21 ~~followed the methodology set forth in subdivision (a)~~
22 ~~using actual airport data for the 1996-97 fiscal year.~~

23 ~~(2) In the event that any portion of the landing fee rate~~
24 ~~for the 1996-97 fiscal year was in dispute and resulted in~~
25 ~~the creation of an escrow account for a portion of the~~
26 ~~landing fees paid, the assessor does not include that~~
27 ~~portion of the landing fee rate attributable to the~~
28 ~~escrowed funds in the calculations performed in~~
29 ~~paragraph (1). However, if the dispute is resolved, in~~
30 ~~whole or in part, in the favor of the publicly owned airport~~
31 ~~and all or a portion of the escrowed funds are released to~~
32 ~~the airport, the assessor shall, without regard to any other~~
33 ~~statutorily imposed time limitation, recalculate the~~
34 ~~assessments required by this subdivision using an~~
35 ~~adjusted landing fee rate that reflects a final decision on~~
36 ~~the disposition of escrowed funds to produce escape~~
37 ~~assessments for all affected years.~~

38 ~~(c) Assessments under this section shall not exceed the~~
39 ~~factored base year value established under Article XIII A~~
40 ~~of the California Constitution. However, adjustments~~



1 ~~made under this section for any increase in the aggregate~~
2 ~~weight of landings by the operator are deemed to be a~~
3 ~~valid basis for establishing a new base year value for the~~
4 ~~additional landing weights.~~

5 ~~SEC. 3.—~~

6 *SECTION 1. Section 107.9 is added to the Revenue*
7 *and Taxation Code, to read:*

8 *107.9. (a) In addition to any taxable real property*
9 *interests that an operator of certificated aircraft has at a*
10 *publicly-owned airport that are interests stated in a*
11 *written agreement for terminal, cargo, hangar,*
12 *automobile parking lot, storage and maintenance*
13 *facilities and other buildings and the land thereunder*
14 *leased in whole or in part by an airline (hereafter the*
15 *“excluded possessory interests”), there exists an*
16 *additional taxable possessory interest conferred upon an*
17 *operator of certificated aircraft at a publicly-owned*
18 *airport.*

19 *(b) Notwithstanding any other provision of law*
20 *relating to valuation, for assessments for the 1998–99 fiscal*
21 *year, and each fiscal year thereafter, (1) regular*
22 *assessments of all taxable real property interests of the*
23 *operator of certificated aircraft at a publicly-owned*
24 *airport, other than the excluded possessory interests, and*
25 *(2) timely escape assessments upon the real property*
26 *interests governed by this section issued on or after April*
27 *1, 1998, pursuant to Sections 531 and 531.2, shall be*
28 *presumed to be valued and assessed at full cash value for*
29 *these interests only if the assessor uses the following*
30 *direct income approach in capitalizing net economic*
31 *rent:*

32 *(1) The economic rent shall be one-half of the landing*
33 *fee rate used to calculate the 1996–97 assessment for real*
34 *property interests, other than excluded possessory*
35 *interests, multiplied by the aggregate weight of landings*
36 *by the operator for the airport’s fiscal year prior to the*
37 *1996 lien date. The one-half of the landing fee rate used*
38 *to compute the 1996–97 economic rent shall be annually*
39 *adjusted in accordance with the percentage change,*
40 *rounded to the nearest one-thousandth of 1 percent, from*



1 *October of the prior fiscal year to October of the current*
 2 *fiscal year in the California Consumer Price Index for all*
 3 *items, as determined by the California Department of*
 4 *Industrial Relations, except that in no instance shall this*
 5 *adjusted rate exceed one-half of the airport's actual*
 6 *landing fee rate for the last full fiscal year. The economic*
 7 *rent shall also be adjusted in proportion to the increase or*
 8 *decrease in the aggregate weight of landings by the*
 9 *operator for the last full fiscal year at each airport in the*
 10 *taxing county. In the case of a new operator, the*
 11 *economic rent shall be determined by reference to a*
 12 *similarly situated operator.*

13 (2) *The expense ratio shall be the ratio used by each*
 14 *county for the 1996 lien date.*

15 (3) *The capitalization rates shall not exceed, or be less*
 16 *than, the rates used by each county for the 1996 lien date,*
 17 *except that they shall be annually adjusted in proportion*
 18 *to the changes in the "Going-in Cap Rate; All Types" as*
 19 *published by the Real Estate Research Corporation, and,*
 20 *as so adjusted, shall be rounded to the nearest one-half*
 21 *percent. If this information ceases to be published by the*
 22 *Real Estate Research Corporation or the format*
 23 *significantly changes, a publication or adjustment agreed*
 24 *to by the airlines and the taxing counties shall be*
 25 *substituted.*

26 (4) *The term of possession for each operator shall be*
 27 *the term used by each county to calculate the 1996–97*
 28 *assessment, but shall not exceed a maximum term of 20*
 29 *years. Subject to paragraphs (1) to (3), inclusive, of*
 30 *subdivision (b) of Section 61 as applied to interests*
 31 *subject to this subdivision, changes of ownership and*
 32 *term of possessions shall be determined as follows:*

33 (A) *In the case of the creation, renewal, extension or*
 34 *assignment of an operating agreement or permit, without*
 35 *the concurrent creation, renewal, extension or*
 36 *assignment of a terminal, hangar, or cargo facility*
 37 *agreement, no change in ownership will be presumed to*
 38 *have occurred and the term of possession shall be the*
 39 *term used by each county for their 1996–97 assessments,*
 40 *not to exceed a maximum of 20 years.*



1 (B) In the case of the creation, renewal, extension or
2 assignment of a terminal, hangar, or cargo facility
3 agreement, a change in ownership will be presumed to
4 have occurred and the term of possession shall be the
5 actual term stated in the written terminal, hangar, or
6 cargo facility agreement, provided that the term shall not
7 be less than 10 years or exceed 15 years.

8 (C) In the case of any operator without a terminal,
9 hangar, or cargo facility agreement, the actual creation,
10 renewal, extension or assignment of a written operating
11 agreement or permit shall constitute a change in
12 ownership and the actual term of the operating
13 agreement for that carrier will be used, provided that the
14 term shall not be less than 5 years or exceed more than 15
15 years.

16 (5) Nothing in this subdivision is intended to apply to
17 the determination of a term of possession for a possessory
18 interest in an excluded possessory interest.

19 (c) Notwithstanding subdivision (b), in a county in
20 which 1995–96 landing fees were not used to calculate the
21 1996–97 assessment, the county shall benefit from the
22 presumption of correctness set forth in subdivision (b)
23 only if the assessor uses the following direct income
24 approach in capitalizing net economic rent:

25 (1) The calculations required in subdivision (b) are
26 performed using the assessment that would have been
27 derived in the 1996–97 fiscal year had the assessor
28 followed the methodology set forth in subdivision (b)
29 using actual airport data for the 1995–96 fiscal year.

30 (2) If any portion of the airport's landing fee rate for
31 the 1995–96 fiscal year was in dispute and resulted in the
32 creation of an escrow account for a portion of the landing
33 fees paid, that portion of the landing fee rate attributable
34 to the escrowed funds shall not be included in the
35 calculations performed in paragraph (1). However, if the
36 dispute is resolved, in whole or in part, in favor of the
37 publicly-owned airport and all or a portion of the
38 escrowed funds are released to the airport, the assessor
39 shall, without regard to any other statutorily imposed
40 time limitation, be entitled to recalculate the assessments



1 required by this subdivision using an adjusted landing fee
2 rate that reflects a final decision on the disposition of
3 escrowed funds to produce escape assessments for all
4 affected years.

5 (d) Value shall be determined as follows:

6 (1) Economic rent shall be calculated by applying the
7 expense ratio described in paragraph (2) of subdivision
8 (b) to reduce gross income determined pursuant to
9 paragraph (1) of subdivision (b) or (c) and paragraph (2)
10 of subdivision (c) to arrive at an amount that shall be
11 deemed to be equivalent to economic rent.

12 (2) Economic rent, as so determined, shall be
13 capitalized for the term provided for in paragraph (4) of
14 subdivision (b) at the capitalization rate determined in
15 accordance with paragraph (3) of subdivision (b).

16 (e) Assessments under this section shall not exceed the
17 factored base year value established under Article XIII A
18 of the California Constitution. However, adjustments
19 made in aggregate landing weights under this section are
20 deemed to be a valid basis for adjusting the base year
21 value to the extent of the percentage change in landed
22 weights for purposes of Article XIII A of the California
23 Constitution. Pursuant to Section 65.1, adjustments in
24 aggregate landing weights shall not be considered a
25 change in ownership or a basis for applying a new term
26 of possession in the airlines' pre-existing real property
27 interest.

28 SEC. 2. This act shall become operative only if
29 Assembly Bill 1807 becomes effective on or before
30 January 1, 1999.

31 ~~SEC. 4.~~

32 SEC. 3. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or
34 safety within the meaning of Article IV of the California
35 Constitution and shall go into immediate effect. The facts
36 constituting the necessity are:

37 This measure is necessary to provide guidance and
38 clarification that is essential to the fair and efficient
39 taxation of airline industry property and possessory
40 interests in publicly owned airports in the current year,



1 and to clarify the status of prior-year property tax
2 payments that have funded essential services provided by
3 local governments and schools.

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