AMENDED IN SENATE JUNE 23, 1998

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 specify that a certain, additional taxable possessory interest is conferred upon an operator of certificated aircraft at a ~~publicly-owned~~ *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 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:

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

107.9. (a) In addition to any taxable real property interests that an operator of certificated aircraft has at a ~~publicly-owned~~ *publicly owned* airport that are interests stated in a written agreement for terminal, cargo, hangar, automobile parking lot, storage and maintenance facilities and other buildings and the land thereunder leased in whole or in part by an airline (hereafter the ‘‘excluded possessory interests’’), there exists an additional taxable possessory interest conferred upon an operator of certificated aircraft at a ~~publicly-owned~~ *publicly owned* airport.

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

(1) The economic rent shall be *computed by using* one-half of the landing fee rate used to calculate the 1996–97 assessment for real property interests, other than excluded possessory interests, multiplied by the

aggregate weight of landings by the operator for the airport's fiscal year prior to the 1996 lien date. The one-half of the landing fee rate used to compute the 1996–97 economic rent shall be annually adjusted in accordance with the percentage change, rounded to the nearest one-thousandth of 1 percent, from October of the prior fiscal year to October of the current fiscal year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations, except that in no instance shall this adjusted rate exceed one-half of the airport's actual landing fee rate for the last full fiscal year. The economic rent shall also be adjusted in proportion to the increase or decrease in the aggregate weight of landings by the operator for the last full fiscal year at each airport in the taxing county. In the case of a new operator, the economic rent shall be determined by reference to a similarly situated operator.

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

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

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

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

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

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

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

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

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

(2) If any portion of the airport's landing fee rate for the 1995–96 fiscal year was in dispute and resulted in the creation of an escrow account for a portion of the landing fees paid, that portion of the landing fee rate attributable to the escrowed funds shall not be included in the calculations performed in paragraph (1). However, if the

dispute is resolved, in whole or in part, in favor of the ~~publicly-owned~~ *publicly owned* airport and all or a portion of the escrowed funds are released to the airport, the assessor shall, without regard to any other statutorily imposed time limitation, be entitled to recalculate the assessments required by this subdivision using an adjusted landing fee rate that reflects a final decision on the disposition of escrowed funds to produce escape assessments for all affected years.

(d) Value shall be determined as follows:

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

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

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

SEC. 2. This act shall become operative only if Assembly Bill 1807 becomes effective on or before January 1, 1999, *and in that event shall become operative on the later of the effective date of this act and the effective date of Assembly Bill 1807*.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California

Constitution and shall go into immediate effect. The facts constituting the necessity are:

This measure is necessary to provide guidance and clarification that is essential to the fair and efficient taxation of airline industry property and possessory interests in publicly owned airports in the current year, and to clarify the status of prior-year property tax payments that have funded essential services provided by local governments and schools.

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