

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 852

Introduced by Assembly Member Fong

February 26, 2009

An act to amend Section 441 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 852, as amended, Fong. Property taxation: statement.

Existing law requires taxpayers that meet certain criteria to file a signed property statement with the county assessor. Existing law authorizes the county assessor to refuse to accept any property statement that he or she determines to be in error and to accept the filing of a property statement by the use of electronic media.

This bill would authorize the county assessor to refuse to accept any property statement that is not in the requested format and to require the filing of a property statement by use of electronic media, as provided. *This bill would require the county assessor, if he or she requires the filing of a property statement by use of electronic media, to notify the taxpayer, in writing, of this requirement, as provided.* This bill would require the State Board of Equalization to adopt equipment category codes, as specified, and would require taxpayers filing a property statement to use the equipment category codes, as specified.

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

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

1 SECTION 1. Section 441 of the Revenue and Taxation Code
2 is amended to read:

3 441. (a) Each person owning taxable personal property, other
4 than a manufactured home subject to Part 13 (commencing with
5 Section 5800), having an aggregate cost of one hundred thousand
6 dollars (\$100,000) or more for any assessment year shall file a
7 signed property statement with the assessor. Every person owning
8 personal property that does not require the filing of a property
9 statement or real property shall, upon request of the assessor, file
10 a signed property statement. Failure of the assessor to request or
11 secure the property statement does not render any assessment
12 invalid.

13 (b) The property statement shall be declared to be true under
14 the penalty of perjury and filed annually with the assessor between
15 the lien date and 5 p.m. on April 1. The penalty provided by Section
16 463 applies for property statements not filed by May 7. If May 7
17 falls on a Saturday, Sunday, or legal holiday, a property statement
18 that is mailed and postmarked on the next business day shall be
19 deemed to have been filed between the lien date and 5 p.m. on
20 May 7. If, on the dates specified in this subdivision, the county's
21 offices are closed for the entire day, that day is considered a legal
22 holiday for purposes of this section.

23 (c) The property statement may be filed with the assessor
24 through the United States mail, properly addressed with postage
25 prepaid. For purposes of determining the date upon which the
26 property statement is deemed filed with the assessor, the date of
27 postmark as affixed by the United States Postal Service, or the
28 date certified by a bona fide private courier service on the envelope
29 containing the application, shall control. This subdivision shall be
30 applicable to every taxing agency, including, but not limited to, a
31 chartered city and county, or chartered city.

32 (d) (1) At any time, as required by the assessor for assessment
33 purposes, every person shall make available for examination
34 information or records regarding his or her property or any other
35 personal property located on premises he or she owns or controls.
36 In this connection details of property acquisition transactions,
37 construction and development costs, rental income, and other data
38 relevant to the determination of an estimate of value are to be

1 considered as information essential to the proper discharge of the
2 assessor's duties.

3 (2) (A) This subdivision shall also apply to an owner-builder
4 or an owner-developer of new construction that is sold to a third
5 party, is constructed on behalf of a third party, or is constructed
6 for the purpose of selling that property to a third party.

7 (B) The owner-builder or owner-developer of new construction
8 described in subparagraph (A), shall, within 45 days of receipt of
9 a written request by the assessor for information or records, provide
10 the assessor with all information and records regarding that
11 property. The information and records provided to the assessor
12 shall include the total consideration provided either by the
13 purchaser or on behalf of the purchaser that was paid or provided
14 either, as part of or outside of the purchase agreement, including,
15 but not limited to, consideration paid or provided for the purchase
16 or acquisition of upgrades, additions, or for any other additional
17 or supplemental work performed or arranged for by the
18 owner-builder or owner-developer on behalf of the purchaser.

19 (e) In the case of a corporate owner of property, the property
20 statement shall be signed either by an officer of the corporation or
21 an employee or agent who has been designated in writing by the
22 board of directors to sign the statements on behalf of the
23 corporation.

24 (f) In the case of property owned by a bank or other financial
25 institution and leased to an entity other than a bank or other
26 financial institution, the property statement shall be submitted by
27 the owner bank or other financial institution.

28 (g) The assessor may refuse to accept any property statement
29 he or she determines to be in error or not in the requested format.

30 (h) If a taxpayer fails to provide information to the assessor
31 pursuant to subdivision (d) and introduces any requested materials
32 or information at any assessment appeals board hearing, the
33 assessor may request and shall be granted a continuance for a
34 reasonable period of time. The continuance shall extend the
35 two-year period specified in subdivision (c) of Section 1604 for a
36 period of time equal to the period of the continuance.

37 (i) Notwithstanding any other law, every person required to file
38 a property statement pursuant to this section shall be permitted to
39 amend that property statement until May 31 of the year in which
40 the property statement is due, for errors and omissions not the

1 result of willful intent to erroneously report. The penalty authorized
2 by Section 463 does not apply to an amended statement received
3 prior to May 31, provided the original statement is not subject to
4 penalty pursuant to subdivision (b). The amended property
5 statement shall otherwise conform to the requirements of a property
6 statement as provided in this article.

7 (j) This subdivision shall apply to the oil, gas, and mineral
8 extraction industry only. Any information that is necessary to file
9 a true, correct, and complete statement shall be made available by
10 the assessor, upon request, to the taxpayer by mail or at the office
11 of the assessor by February 28. For each business day beyond
12 February 28 that the information is unavailable, the filing deadline
13 in subdivision (b) shall be extended in that county by one business
14 day, for those statements affected by the delay. In no case shall
15 the filing deadline be extended beyond June 1 or the first business
16 day thereafter.

17 (k) Pursuant to this section, the assessor may require the filing
18 of a property statement by the use of electronic media. Property
19 statements shall be filed and authenticated in a form and pursuant
20 to methods, including electronic media, as may be prescribed by
21 the board.

22 (1) ~~This section subdivision~~ shall only apply to taxpayers with
23 properties with assessed value of at least one hundred thousand
24 dollars (\$100,000) in the prior year.

25 ~~(2) For the first year in which an assessor requires a taxpayer~~
26 ~~to file electronically pursuant to this section, the taxpayer may,~~
27 ~~for that one year, comply with all existing filing requirements and~~
28 ~~deadlines with paper filings. After that first year, and in all~~
29 ~~subsequent years, the taxpayer, shall file electronically pursuant~~
30 ~~to this section.~~

31 ~~(l) In lieu of the signature required by subdivision (a) and the~~
32 ~~declaration under penalty of perjury required by subdivision (b),~~
33 ~~property statements filed using electronic media shall be~~
34 ~~authenticated pursuant to methods specified by the assessor and~~
35 ~~approved by the board. Electronic media includes, but is not limited~~
36 ~~to, computer modem, magnetic media, optical disk, and facsimile~~
37 ~~machine.~~

38 (2) *If an assessor requires the filing of a property statement by*
39 *the use of electronic media pursuant to this subdivision, the*

1 *assessor shall notify the taxpayer, in writing, of the requirement*
2 *to file electronically pursuant to this subdivision.*

3 *(3) (A) For the first year in which an assessor requires a*
4 *taxpayer to file electronically pursuant to this subdivision, the*
5 *taxpayer may, for that one year, comply with all existing filing*
6 *requirements and deadlines with paper filings. After that first year,*
7 *and in all subsequent years, the taxpayer shall file electronically*
8 *pursuant to this subdivision.*

9 *(B) The one year period to comply with all existing filing*
10 *requirements and deadlines with paper filings authorized pursuant*
11 *to subparagraph (A) shall begin on the date the notification*
12 *required by paragraph (2) is sent to the taxpayer.*

13 *(4) In lieu of the signature required by subdivision (a) and the*
14 *declaration under penalty of perjury required by subdivision (b),*
15 *property statements filed using electronic media shall be*
16 *authenticated pursuant to methods specified by the assessor and*
17 *approved by the board.*

18 *(5) For purposes of this subdivision, electronic media includes,*
19 *but is not limited to, computer modem, magnetic media, optical*
20 *disk, and facsimile machine.*

21 ~~(m)~~

22 *(l) (1) After receiving the notice required by Section 1162, the*
23 *manager in control of a fleet of fractionally owned aircraft shall*
24 *file with the lead county assessor's office one signed property*
25 *statement for all of its aircraft that have acquired situs in the state,*
26 *as described in Section 1161.*

27 *(2) Flight data required to compute fractionally owned aircraft*
28 *allocation under Section 1161 shall be segregated by airport.*

29 ~~(n)~~

30 *(m) (1) After receiving the notice required by paragraph (5) of*
31 *subdivision (b) of Section 1153.5, a commercial air carrier whose*
32 *certificated aircraft is subject to Article 6 (commencing with*
33 *Section 1150) of Chapter 5 shall file with the lead county assessor's*
34 *office designated under Section 1153.5 one signed property*
35 *statement for its personal property at all airport locations and*
36 *fixtures at all airport locations.*

37 *(2) Each commercial air carrier may file one schedule for all of*
38 *its certificated aircraft that have acquired situs in this state under*
39 *Section 1151.*

1 (3) Flight data required to compute certificated aircraft allocation
2 under Section 1152 and subdivision (g) of Section 202 of Title 18
3 of the California Code of Regulations shall be segregated by airport
4 location.

5 (4) Beginning with the 2006 assessment year, a commercial air
6 carrier may file a statement described in this subdivision
7 electronically by means of the SDR network. If the SDR is not
8 equipped to accept electronic filings for the 2006 assessment year,
9 an air carrier may file a printed version of its property statement
10 for that year with its lead county assessor's office.

11 (5) This subdivision shall remain in effect only until December
12 31, 2010, and as of that date is repealed.

13 ~~(6)~~

14 (n) (1) On or before January 1, 2011, the State Board of
15 Equalization, in consultation with the California Assessors'
16 Association, shall adopt equipment category codes. The board
17 shall adopt these category codes in consultation with the California
18 Assessors' Association and representatives of taxpayers.

19 (2) On and after January 1, 2012, taxpayers filing a property
20 tax statement shall use the equipment category codes specified in
21 paragraph (1).