AMENDED IN SENATE JULY 14, 2009

AMENDED IN SENATE JULY 1, 2009

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.

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 electronic filing of a property statement, as provided. This bill would require the county assessor, if he or she requires a property statement to be filed electronically, to notify the taxpayer, in writing, of this requirement. *This bill would authorize a county assessor to apply a penalty on a taxpayer, as provided, if a taxpayer fails to file a property statement electronically.* This bill would require the State Board of Equalization to adopt equipment category codes, as specified, and would require taxpayers filing a property statement electronically 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:

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

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

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

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

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

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

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

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

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

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

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

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 does not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

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

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. For purposes of this subdivision, electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.

(*l*) (1) The assessor may require the property statement to be filed electronically.

(2) A property statement that is filed electronically pursuant to this subdivision shall satisfy both of the following:

(A) Be filed using electronic Internet media in a form and pursuant to methods as may be specified by the assessor and approved by the board.

(B) In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), be authenticated pursuant to methods specified by the assessor and approved by the board.

(3) If an assessor requires a property statement to be filed electronically pursuant to this subdivision, the assessor shall notify the taxpayer, in writing, of this requirement.

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

(B) The one-year period to comply with all existing filing requirements and deadlines with paper filings authorized pursuant to subparagraph (A) shall begin on the date the notification required by paragraph (3) is sent to the taxpayer.

(5) This subdivision shall only apply to taxpayers owning taxable personal property, other than a manufactured home, having an aggregate assessed value of one hundred thousand dollars ($100,000) or more in the immediate prior year.

(6) The assessor may, in any given year, waive the electronic filing requirements of this subdivision for a taxpayer who demonstrates that this requirement would place an unreasonable burden on his or her business.

(7) An assessor who requires a taxpayer to file a property statement electronically pursuant to this subdivision may apply a penalty on a taxpayer as provided by Section 463 if the taxpayer fails to file the property statement electronically.

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

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

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

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

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

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

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

(o) (1) On or before January 1, 2011, the State Board of Equalization shall, in consultation with the California Assessors' Association and representatives of taxpayers, adopt equipment category codes for property statements filed electronically pursuant to subdivision (*l*) that request these codes.

(2) *(A)* On and after January 1, 2012, taxpayers filing property statements electronically pursuant to subdivision (*l*) shall use the equipment category codes specified in paragraph (1).

(B) An assessor shall not penalize a taxpayer for failing to use the equipment category codes specified in paragraph (1) if the State Board of Equalization fails to adopt the equipment category codes on or before the date specified in paragraph (1).

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