

[Assembly Bill 571](#) (Brown)

Date: 05/04/15

Program: Property Taxes

Sponsor: California Assessors' Association

Revenue and Taxation Code Section 463 and 483

Effective: January 1, 2016

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Summary: Conforms the reasonable cause standard for abating penalties related to late-filed change in ownership statements and property statements to other property tax law penalty abatement provisions.

Summary of Amendments: The amendments since the previous analysis delete the disabled child base year value transfer provisions.

Purpose: To align penalty forgiveness provisions in property tax law.

Fiscal Impact Summary: Minimal.

Existing Law: The law imposes a penalty for failure to file change in ownership statements and property statements within the prescribed time period.¹ The law authorizes the county assessment appeals board to abate the penalty if the assessee establishes to the appeals board satisfaction that the failure to file timely was due to reasonable cause and not due to willful neglect.²

The Revenue and Taxation Code allows taxing authorities to abate various penalties for "reasonable cause."³ For most provisions, the law specifically allows penalty abatement for reasonable cause and circumstances beyond the taxpayer's control that occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect.⁴ BOE property tax provisions for state assessees,⁵ the Private Railroad Car Tax,⁶ and the Timber Yield Tax⁷ use this same standard. But the text differs in the change in ownership and property statement provisions. Those sections provide that penalties can be abated "due to reasonable cause and not due to willful neglect."

Proposed Law: This bill modifies both the business property statement and change in ownership statement penalty abatement provisions to conform the language to other provisions of law by substituting the phrase "circumstances beyond the assessee's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect" for "not due to willful neglect."

Commentary:

- 1. The May 5, 2015 amendments** delete the provision related to base year value transfers for persons with a disabled child. The author introduced [ACA 6](#) to propose a constitutional amendment to voters to authorize these transfers.
- 2. Penalty Abatement Conformity.** The county assessment appeals board has the authority to abate certain property tax-related penalties for reasonable cause. Counties note that different standards on "reasonable cause" apply to different county officials and the BOE. One standard applies to the tax collector for late tax payments (RTC 4985.2), to the assessor for allowing the welfare exemption

¹ Revenue and Taxation Code (RTC) Sections 441 and 482.

² RTC Sections 463 and 483

³ The RTC contains 76 separate sections authorizing penalty abatement for reasonable cause.

⁴ Fifty-six of the 76 RTC sections.

⁵ RTC Sections [830](#) and [862](#).

⁶ RTC Sections [11273](#), [11316](#), [11534](#), and [11597](#).

⁷ RTC Sections [38452](#) and [38577](#).

on property in the course of construction (RTC 214.2), and to the BOE for state-assessed taxes (RTC 830, 862, 11273, 11316, 11534, 11597, 38452 and 38577). This results in different standards and possibly different interpretations across jurisdictions. The amendments will align all the property tax laws so that they mirror each other.

3. **This bill conforms the reasonable cause standard to the standard most often used in the Revenue and Taxation Code.** The Revenue and Taxation Code contains 76 separate sections authorizing penalty abatement for reasonable cause, 56 of those sections use the same language as this bill proposes.
4. **Suggested amendments.** There are two other locations where the standard should also be changed. The first paragraph of RTC 483 and RTC Section 5367, related to penalty abatement for late aircraft statements, should also be amended for conformity.

RTC Section 483. (a) If the assessee establishes to the satisfaction of the county board of equalization or the assessment appeals board that the failure to file the change in ownership statement within the time required by subdivision (a) of Section 482 was due to reasonable cause and ~~not due to~~ circumstances beyond the assessee's control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect, and has filed the statement with the assessor, the county board of equalization or the assessment appeals board may order the penalty abated, provided the assessee has filed with the county board of equalization or the assessment appeals board a written application for abatement of the penalty no later than 60 days after the date on which the assessee was notified of the penalty.

RTC Section 5367. If any person who is requested to file a statement pursuant to Section 5365 fails to file such statement by the time specified by the assessor, a penalty of 10 percent of the market value of the unreported aircraft shall be added to the value of the aircraft of such person which is placed on the current roll.

If the assessee establishes to the satisfaction of the county board of equalization or the assessment appeals board that the failure to file the statement was due to reasonable cause and ~~not due to~~ circumstances beyond the assessee's control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect, it may order the penalty abated; provided, that the assessee has filed with the county board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

If the penalty is abated, it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

Administrative Costs: The BOE would have absorbable costs to update its publications and website.

Revenue Impact: BOE staff estimates minimal revenue impact from changing the abatement of penalties provision related to failure to file a property statement or a change in ownership statement.