

[Assembly Bill 571](#) (Brown)

Date: 09/01/15

Program: Property Taxes

Sponsor: California Assessors' Association

Revenue and Taxation Code Sections 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 make the reasonable cause standard language consistent.

**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.<sup>1</sup> 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.<sup>2</sup>

The Revenue and Taxation Code allows taxing authorities to abate various penalties for "reasonable cause."<sup>3</sup> 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.<sup>4</sup> BOE property tax provisions for state assessees,<sup>5</sup> the Private Railroad Car Tax,<sup>6</sup> and the Timber Yield Tax<sup>7</sup> 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 September 1, 2015** amendments make a conforming amendment to RTC Section 483(a) for internal consistency of the penalty abatement standard. Previously, the bill only amended RTC Section 483(b). **The May 5, 2015 amendments** deleted a provision related to base year value transfers for persons with a disabled child included in the bill as introduced. The author introduced [ACA 6](#) to propose a constitutional amendment to voters to authorize these transfers.

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<sup>1</sup> Revenue and Taxation Code (RTC) Sections 441 and 482.

<sup>2</sup> RTC Sections 463 and 483

<sup>3</sup> The RTC contains 76 separate sections authorizing penalty abatement for reasonable cause.

<sup>4</sup> Fifty-six of the 76 RTC sections.

<sup>5</sup> RTC Sections [830](#) and [862](#).

<sup>6</sup> RTC Sections [11273](#), [11316](#), [11534](#), and [11597](#).

<sup>7</sup> RTC Sections [38452](#) and [38577](#).

- 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 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. With the exception of RTC Section 5367, related to late-filed aircraft statements, this bill aligns penalty abatement standards in the property tax law 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.

**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.