


Memorandum

To: Honorable George Runner, Chair
Honorable Fiona Ma, CPA, Vice Chair
Honorable Jerome E. Horton, Third District
Honorable Diane L. Harkey, Fourth District
Honorable Betty T. Yee, State Controller

Date: September 13, 2018

From: 
David Yeung, Chief
County-Assessed Properties Division

Subject: **Board Meeting September 25, 2018**
Status Report of the Interested Parties Process for the
Certificated Aircraft – 365-day Representative Period

I. Summary

At its meeting in December 2017, the Board directed staff to initiate an interested parties process (IPP) with assessors and industry representatives of the various air carriers that operate in California. The IPP's purpose would be to discuss the feasibility of transitioning to a 365-day representative period to allocate the assessed values of commercial aircraft.¹ In addition, the Board directed staff to initiate a Request for Information (RFI) process to determine whether data necessary for a 365-day representative period could be provided by a third party vendor. Board staff has conducted the IPP and the RFI. Over the course of four meetings, participants have reviewed and discussed data samples, presented examples of how the data may be used by assessors, discussed potential resource requirements, and considered alternatives to the historical one-week representative period in January each year.

Through the IPP and the RFI, BOE staff found that the data necessary to support the proposed 365-day representative period is available from two third-party vendors. However, we also found that there is considerable concern from both industry and assessors that using third-party data would pose significant administrative burdens.

As this IPP is reaching its conclusion, assessors and industry have convened a working group, outside of the IPP, made up of technical experts from both sides to explore possible changes to the current assessment allocation methodology. BOE staff will continue to confer with assessors and industry regarding the progress of the working group.

II. Background

Each year, the Board designates the representative period to be used by all assessors in assessing the aircraft of certificated air carriers in the forthcoming tax year.² The purpose of a representative period is to obtain air carrier operational data that can reasonably be expected to reflect the *average* activity of the carrier for the ensuing tax year. The representative period is used to allocate an aircraft's physical presence inside and out of California. Revenue and Taxation Code section 1152 specifies that the allocation formula is based on an air carrier's

¹ Refer to Minutes of the State Board of Equalization, Thursday, December 14, 2017, page 26.

² See Revenue and Taxation Code section 1153 and Property Tax Rule 202.

ground and flight time (that is, "time in state") weighted 75 percent, and arrival and departures activity weighted 25 percent.³

Historically, the Board has selected a one-week period near the lien date as the representative period for scheduled activity. However, since 2011 the California Assessors' Association (CAA) has requested that the Board re-evaluate this practice.⁴ CAA has asserted that the Board should designate an alternative representative week, as the one-week period in January reflects below average operations, and that the necessary data is available to support the use of the entire prior year's flight activity as representative for the ensuing tax year. The proposed use of the entire prior year's flight activity is often referred to as a 365-day representative period. Industry representatives have asserted that the representative period should continue to be set as a week in January, as the representative period should be as close as possible to the lien date, ensuring the aircraft assessed on the lien date matches the apportionment activity reflected in the representative period.

III. Interested Parties Process

The Board asked staff to conduct this IPP to consider issues related to a possible transition to a 365-day representative period. Through a series of four interested parties meetings, held February 26, April 5, May 23, and August 28 of this year, participants engaged in analysis of data samples from prospective vendors, discussion of additional staff and time implementation requirements, and consideration of other possible alternatives to the historical representative period in January.

A. February 26, 2018

At the kickoff meeting, CAA presented an overview and history of the representative period and an analysis of scheduled data provided by a prospective data vendor. CAA also presented analyses that compared activity by month for each calendar year from 2010 to 2015 for both LAX and SFO in support of transitioning away from the historical one-week period in January. Participants provided feedback and expressed concerns regarding the possible change to the 365-day representative period.

B. April 5, 2018

At the second meeting, discussion centered around the standardized data samples provided by the two prospective vendors. BOE staff presented a summary analysis that compared sample data for arrivals and departures to that reported by air carriers to the assessor for the 2017 representative period. CAA presented examples of the time and activity calculations utilizing the data samples. Industry participants expressed concerns about instances where estimates were made in the data samples, and about the administrative burden of reviewing and confirming the third-party data for all 365 days of activity. Assessors explained that receiving annual data all at once would be a burden, but that it could be overcome by receiving the data in smaller, monthly packets. BOE staff shared concerns about the administrative burden on both industry and assessors, and expressed the need to explore other alternatives to the historical January representative period.

³ In applying the allocation formulas, provisions of Rule 202(e) require that arrivals and departures and ground and flight times be derived from the carrier's operating schedules within the representative period.

⁴ Information related to discussions on the representative period for certificated aircraft is available at: <http://www.boe.ca.gov/proptaxes/rpc.htm>.

C. *May 23, 2018*

At the third meeting, discussion focused primarily on the additional staff, resources, and time needed under a 365-day representative period scheme, and on the data samples. Industry reiterated concerns about the administrative burden, including adding staff and additional software programming that would be necessary for review and compliance. Assessors reiterated the need to receive the data in smaller, maybe monthly, packets. A prospective vendor addressed industry concerns about instances where estimates were made in the data samples. Both assessors and industry agreed that a legislative solution would be necessary if the objective was to simplify the assessment allocation methodology to allow the use of a summary of full year's activity, rather than the complete data record for a full year, possibly mirroring a model used in other states.

CAA presented an analysis of arrivals and departures by week covering the last five years. The analysis identifies weeks in April, May, September, October, and November as possible alternatives to a one-week representative period in January. Participants did not arrive at any agreement regarding a recommendation for an alternative one-week representative period.

One industry representative announced that assessors and certain industry representatives had a discussion outside of the IPP, where it was agreed that a working group, made up of technical experts from both assessors and industry, would be formed; elected officials and lobbyists would be excluded from the working group. Their objective would be to explore possible changes to the current assessment allocation methodology in California.

D. *August 28, 2018*

In the fourth IPP meeting, the discussion focused on a report from the assessors and industry on recent meetings that occurred outside of the interested parties process.

Report from Assessors and Industry

- *July 16, 2018 meeting:* Discussion points included the challenges of choosing a representative week, the accuracy that a 365-day representative period would bring, the burden that both sides will face if a 365-day representative period is used under the current laws and regulations, and other possible statistical data that could be used to measure activity, such as Revenue Passenger Miles. There was a consensus that a 365-day representative period would yield a more accurate allocation than the current allocation. The group discussed the possibility of using a time factor only, without a component for arrivals and departures. Most group members agreed that the time spent at each airport is a very good indicator of a fleet's presence in that airport.
- *July 25, 2018 meeting:* Discussion points included the original intent of the 25% factor for arrivals and departures, measuring a fleet's presence at an airport, mechanics of 365-day representative period reporting, and solutions for the California air time and taxi time problem. The conclusion was a consensus that actual time would be utilized and maintenance time would be included in the times reported. However, a change to the allocation formula would require changes to the relevant Revenue and Taxation Code sections, Property Tax Rules, BOE forms, and the BOE handbook. Expectations for this change would be for the 2020 lien date.

- *August 16, 2018 meeting:* Discussion points included a solution for the 2019 representative period, the 365-day representative period for the 2020 lien date, the fiscal impact of changing to a 365-day representative period, and verifiability of the data. One proposed solution was different representative periods for different airlines.

Assessors and industry both indicated that while progress has been made, they request 60 more days to determine a proposed representative period for 2019, as well as to continue to discuss alternative framework for a legislative proposal based on the 365-day representative period for implementation in 2020. The proposal will be provided to BOE staff by November 1, 2018. Tentatively, the next interested parties meeting is scheduled for November 7, 2018.

IV. Request for Information Process

Working closely with CDTFA's Acquisitions Branch, Board staff conducted the RFI process concurrently with the IPP. In May of this year, responses to the RFI were submitted by two possible vendors, the same two vendors that participated in this IPP from the outset. Ordinarily, the next step in the acquisition process following the RFI is to offer an Invitation for Bid (IFB) to the vendors who responded to the RFI. However, the IFB was not initiated as both assessors and industry agreed that the airlines would be best positioned to provide reliable data.

V. Staff's Conclusions Regarding the 365-day Representative Period

BOE staff agrees with assessors and industry that a 60 day extension of time may yield an agreed to proposal for 2019 representative period and, possibly, to a long term legislative proposal to be pursued by the parties. BOE staff will review the 2019 representative period proposal that will be provided by assessors and industry on November 1, 2018, and determine if the additional IPP meeting, tentatively scheduled for November 7, 2018, will be needed. To date, BOE staff has made significant progress towards answering the questions the Board has set as the goals of this IPP process:

A. Whether the data necessary to support the adoption of a 365-day representative period is available.

We found that the data necessary to support the proposed 365-day representative period is available from at least two vendors. Both vendors provided standardized data samples reflecting one week of flight operations data from January 2017. BOE staff and CAA reviewed the data and prepared a summary analysis comparing information from the samples to information reported to assessors by industry assessesees, finding that the information from both sources agreed materially after considering reconciling items. Industry representatives reviewed the data and expressed reservations about its reliability during the interested parties meetings.

B. If the data is available, whether it can be utilized effectively by assessors.

We found that data from third-party vendors can be utilized for allocation. CAA reviewed the data samples and presented examples showing how the data could be used to calculate an aircraft's presence in California. BOE staff performed an analysis utilizing arrivals and departures, and found that the data could be used for allocation purposes.

C. *If the data can be utilized effectively, whether the benefits of transitioning to a 365-day representative period justify the cost.*

We found that utilizing a 365-day representative period would be a more accurate measure of the presence of certificated aircraft in California. However, there is considerable concern from both industry and assessors that utilization of that data poses significant administrative burdens. Industry representatives assert that the resources necessary to review and verify the third-party data will be overwhelmingly burdensome, requiring additional staff, time, and computer programming; therefore, a 365-day representative period cannot be implemented under California's current statutory and regulatory scheme. While assessors agree that the utilization of data required for a full-year representative period likely adds significantly to the administrative burden under the existing assessment scheme, they have not conceded that the proposed 365-day period cannot be implemented under a different statutory and regulatory framework. Assessors continue to investigate possible solutions to overcome the expected increased burden on both assessors and industry.

Approved:



Dean R. Kinnee
Executive Director