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December 11, 2018

VIA EMAIL ONLY

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Re: Proposed Amendment to Property Tax Rule 323
Postponements and Continuances

STATE BOARD OF EQUALIZATION



Appeal Name: PT Rules 302, 305, 305.1, 305.2, and 323

Case ID: Marcy L. Berkman ITEM #. C1

Date: December 12, 2018 Exhibit No: 12.6

TP FTB DEPT MEMBER **PUBLIC COMMENT**

Dear Board Chair Runner, Mr. Nanjo and Ms. Smith:

Thank you for allowing me the opportunity to provide input regarding the proposed amendments to the Property Tax Rules. I am a Deputy County Counsel in the Office of the County Counsel and assigned counsel to the County of Santa Clara Assessment Appeals Board. I write to comment on the proposed amendment to Property Rule 323 regarding postponements and continuances.

First, I would like to suggest adding a definition for the terms "postponement" and "continuance." These terms are not presently defined and have long been a source of confusion and inconsistent interpretation for many.

Second, I respectfully suggest that the proposed amended language for Rule 323 subdivision (c) should also include language referencing the mandatory continuance required by Revenue and Taxation Code section 1606(d) and Property Tax Rule 305.1(c) where, following a formal exchange of information, certain new information is presented at hearing.

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Taxpayers and assessors seek information from each other in three ways: (1) taxpayers obtain information from assessors under RTC 408; (2) assessors obtain information from taxpayers under RTC 441(d); and, (3) taxpayers and assessors engage in a formal exchange of information pursuant to RTC 1606 and Property Tax Rule 305.1.

Each of these three RTC provisions for obtaining information also contains a subdivision requiring mandatory continuance of AAB hearings under certain circumstances. But the proposed amendment to Rule 323(c) references only the continuances required by RTC sections 408(f)(3) and RTC 411(h) while omitting any reference to the mandatory continuance required by RTC 1606(d). Following a formal exchange of information, RTC 1606(d) and Property Tax Rule 305.1(c) allows each party to introduce at hearing new material related to information received from the other party but also mandates that "if a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time."

To prevent ambiguity, confusion, and misunderstanding, I respectfully suggest that since the proposed amendment to Property Tax Rule 323 references the mandatory continuances required by RTC 408 and 411, it should also reference the mandatory continuance required by RTC 1606(d) and Property Tax Rule 305.1(c). This could be achieved by adding the following language at the end of the proposed amendment to Rule 323(c): "Following a formal exchange of information, if a party introduces new material relating to the information received from the other party, the other party, upon request, shall be granted a continuance for a reasonable period of time pursuant to RTC 1606(d) and Property Tax Rule 305.1(c)."

Thank you for your consideration of this matter.

Very truly yours,

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