Issue Paper Number **21-002**

☒ Board Meeting
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California State
Board of Equalization

Property Tax Deadlines Impacted by COVID-19 Pandemic – Amendments to Statutory and Constitutional Provisions Requested at the July 27, 2021, Board Meeting

I. Issue

During the COVID-19 pandemic and the related restrictions from the Governor's stay-at-home orders, the ability of County Assessors, Assessment Appeals Boards, and taxpayers to meet certain property tax deadlines was a primary concern. Based on existing laws, the State Board of Equalization (Board) was limited in the relief it could provide. Accordingly, the Board and its stakeholders were dependent on the Governor issuing Executive Orders to grant relief.

Property tax laws provide the Board authority to extend certain deadlines, but limits who may be granted an extension and the amount of time granted. These laws include:

- Revenue and Taxation Code (RTC) section 155: authorizes the Board to extend the deadline for up to 30 days (40 days in case of public calamity) for any act by the County Assessor or county board.
- Government Code (GC) section 15620: authorizes the Board to extend any deadlines for reports that must be filed with the Board up to 30 days.

Additionally, the Governor's emergency order made it difficult for taxpayers to comply with Constitutional provisions which required the purchase or new construction of a replacement property within a set period of time to qualify for a base year value transfer. These provisions include section 2, subdivision (a) of Article XIII A of the California Constitution, implemented by RTC section 69.5 (relating to base year value transfers for seniors, and disabled persons prior to April 1, 2021), section 2.1, subdivision (b) of Article XIII A of the California Constitution, added by Proposition 19 (relating to base year value transfers for seniors, disabled persons and victims of wildfires or natural disaster after April 1, 2021), and section 2, subdivision (e)(3) of Article XIII A of the California Constitution, implemented by RTC section 69.3 (relating to disasters).

This Issue Paper presents potential amendments to the statutory and Constitutional provisions listed above to serve as a beginning point of discussion for Board Members.

II. Background

At the July 27, 2021, Board Meeting, the Board requested staff to draft amendments to RTC section 155 and GC section 15620 that would allow the Board to extend deadlines for taxpayers unable to meet filing deadlines due to Governor-proclaimed emergencies, such as the one declared during the COVID-19 pandemic. The Board also requested staff draft amendments to relevant portions of sections 2 and 2.1 of Article XIII A of the California Constitution to provide relief to taxpayers unable to meet the Constitutionally mandated periods within which a replacement property or replacement home must be purchased or newly constructed due to the COVID-19 emergency.

III. Revenue and Taxation Code section 155

RTC section 155 authorizes the Board to extend the deadline for up to 30 days (40 days in case of public calamity) for any act by the County Assessor or county board but does not include acts by taxpayers. It states:

> The time fixed in this division for the performance of any act by the assessor or county board may be extended by the board or its executive director for not more than 30 days, or, in case of public calamity, 40 days. If an extension of time is granted, the executive director of the board shall give written notice thereof to the county auditor, county tax collector, and the officer or county board to whom the extension is granted. The executive director shall inform the board at its next regular meeting of any action with respect to extensions taken by him or her. There shall be the same extension of time for any act of the board dependent on the act for which time was extended.

The "division" referred to in section 155 is Division 1 of the Revenue and Taxation Code, which is divided into 15 Parts, encompassing sections 50 through 5911. Division One is entitled and governs "Property Taxation." However, it is important to note that certain Parts contained in Division 1 govern aspects of property taxation over which the Board does not exercise authority. (See Gov. Code. section 15600 for the scope of the Board's duties, powers, and responsibilities.) This includes, for example, Part 5, which governs the collection of property taxes and Part 6, which governs tax sales. For this reason, the proposed amendments to RTC section 155 below are limited to the Board's exercise of deadlines over which it has oversight authority. Further, two alternatives are presented for the Board's consideration. Alternative 1 gives the Board the sole discretion to extend deadlines in a public calamity. Alternative 2 gives the Board the authority to extend deadlines in a public calamity only in response to a request for extension made by a County Assessor or county board of equalization.

Alternative 1

> The time fixed in this division for the performance of any act by the assessor or county board may be extended by the board or its executive director for not more than 30 days, or, in case of public calamity, 40 days. <u>In the case of public calamity, the time fixed in this division for the filing of any report or application with the assessor or county board that is required to be made by taxpayers, may be extended by the board or its executive director for not</u>

> more than 40 days. If an extension of time is granted, the executive director of the board shall give written notice thereof to the county auditor, county tax collector, and the assessor ~~officer~~ or county board to whom the extension is granted. The executive director shall inform the board at its next regular meeting of any action with respect to extensions taken by him or her. There shall be the same extension of time for any act of the board dependent on the act for which time was extended.

Alternative 2

> The time fixed in this division for the performance of any act by the assessor or county board may be extended by the board or its executive director for not more than 30 days, or, in case of public calamity, 40 days. In the case of public calamity, and upon the request of the assessor or the county board, the time fixed in this division for the filing of any report or application with the assessor or county board that is required to be made by taxpayers, may be extended by the board or its executive director for not more than 40 days, If an extension of time is granted, the executive director of the board shall give written notice thereof to the county auditor, county tax collector, and the assessor ~~officer~~ or county board to whom the extension is granted. The executive director shall inform the board at its next regular meeting of any action with respect to extensions taken by him or her. There shall be the same extension of time for any act of the board dependent on the act for which time was extended.

Finally, we note that the time for which an extension may be granted is not extended in these amendments. Because we cannot predict potential "downstream" effects of the delay of certain filings on other areas of local government, should the Board desire the ability to extend deadlines more than 40 days in the case of public calamity, we recommend that interested parties be consulted to determine an appropriate length of time.

IV. Government Code section 15620

GC section 15620 authorizes the Board to extend any deadlines for reports that must be filed with the Board up to 30 days but makes no provision for extra time in case of a Governor-proclaimed emergency. It states:

> By order entered upon its minutes and for good cause shown, the board may extend for not exceeding 30 days the time fixed for filing any report required by it.

The amendment below grants the Board the authority to extend this time up to 60 days in the event of public calamity.

> By order entered upon its minutes and for good cause shown, the board may extend for not exceeding 30 days, or in case of public calamity, 60 days, the time fixed for filing any report required by it.

V. Amendments to Article XIII A of the California Constitution

Section 2, subdivision (a) of Article XIII A of the California Constitution, implemented by RTC section 69.5 and section 2.1, subdivision (b) of Article XIII A of the California Constitution, added by Proposition 19, provides the ability for certain taxpayers to transfer the base year value of an original property to a replacement property; however, the replacement property must be purchased or newly constructed within two years of the sale of the original property. Further, section 2, subdivision (e)(3) of Article XIII A of the California Constitution, implemented by RTC section 69.3, states that counties may, by ordinance, allow the transfer of base year values for property substantially damaged or destroyed by disaster if a comparable replacement property is acquired or newly constructed within three years of the damage or destruction of the original property. Therefore, amendments are presented below, for the Board's consideration, of section 2(a), section 2.1(b)(1), and section 2(e)(3) of Article XIII A.

Paragraph 2 of section 2(a), Article XIII A

> However, the Legislature may provide that, under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. <u>For purposes of determining whether a replacement dwelling was purchased or newly constructed within two years of the sale of the original property, any time period during which a Governor proclaimed emergency exists, including for the COVID-19 pandemic, plus one year, shall not be counted if the original or replacement property is located within an area for which the emergency is proclaimed.</u>

Section 2.1(b)(1), Article XIII A

> Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence. <u>For purposes of determining whether a replacement primary residence was purchased or newly constructed within two years of the sale of the original primary residence, any time period during which a Governor proclaimed emergency exists, including for the COVID-19 pandemic, plus one year, shall not be counted if the original or replacement primary residence is located within an area for which the emergency is proclaimed.</u>

Section 2(e)(3) of Article XIII A

> In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. <u>For purposes of determining whether a comparable replacement property was acquired or newly constructed within three years of the sale of the substantial damage or destruction of the original property, any time period during which a Governor proclaimed emergency exists as a result of the COVID-19 pandemic, plus one year, shall not be counted.</u>

Prepared By:
David Yeung / Richard Moon

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