

MONO COUNTY ASSESSMENT PRACTICES SURVEY

SEPTEMBER 2017

CALIFORNIA STATE BOARD OF EQUALIZATION

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No. 2017/035

September 11, 2017

TO COUNTY ASSESSORS:

**MONO COUNTY
ASSESSMENT PRACTICES SURVEY**

A copy of the Mono County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in specified counties to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Barry Beck, Mono County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Mono County Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from September through October 2015. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

We gratefully acknowledge the patience, courtesy and cooperation of Mr. Beck and his staff during the survey.

Sincerely,

/s/ David Yeung for

Dean R. Kinnee
Deputy Director
Property Tax Department

DRK:dcl
Enclosure

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INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of specified county assessors' offices. This report reflects the BOE's findings in its current survey of the Mono County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Mono County Board of Supervisors, Grand Jury, and Assessment Appeals Board. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Barry Beck, Mono County Assessor, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

OBJECTIVE

The survey shall "...show the extent to which assessment practices are consistent with or differ from state law and regulations."¹ The primary objective of a survey is to ensure the assessor's compliance with state law governing the administration of local property taxation. This objective serves the three-fold purpose of protecting the state's interest in the property tax dollar, promoting fair treatment of taxpayers, and maintaining the overall integrity and public confidence in the property tax system in California.

The objective of the survey program is to promote statewide uniformity and consistency in property tax assessment by reviewing each specified county's property assessment practices and procedures, and publishing an assessment practices survey report. Every assessor is required to identify and assess all properties located within the county – unless specifically exempt – and maintain a database or "roll" of the properties and their assessed values. If the assessor's roll meets state requirements, the county is allowed to recapture some administrative costs.

SCOPE AND METHODOLOGY

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

Pursuant to Revenue and Taxation Code² section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team – based on objective standards defined in regulation – that there are no significant assessment problems in the county.

This survey examined the assessment practices of the Mono County Assessor's Office for the 2015-16 assessment roll. Since this survey did not include an assessment sample pursuant to Government Code section 15640(c), our review included an examination to determine whether "significant assessment problems" exist, as defined by Rule 371.

Our survey methodology of the Mono County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contacts with officials in other public agencies in Mono County who provided information relevant to the property tax assessment program.

¹ Government Code section 15642.

² Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code and all rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

For a detailed description of the scope of our review of county assessment practices, please refer to the BOE's website at <http://www.boe.ca.gov/Assessors/pdf/Scopemaster.pdf>. In addition, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

We conducted reviews of the following areas:

- Administration

We reviewed the assessor's administrative policies and procedures that affect both the real property and business property assessment programs. Specific areas reviewed include the assessor's budget and staffing, workload, assessment appeals, and welfare exemptions.

- Assessment of Real Property

We reviewed the assessor's program for assessing real property. Specific areas reviewed include properties having experienced a change in ownership, new construction assessments, properties experiencing a decline in value, and certain properties subject to special assessment procedures, such as California Land Conservation Act (CLCA) property, taxable government-owned property, taxable possessory interests, and mineral property.

- Assessment of Personal Property and Fixtures

We reviewed the assessor's program for assessing personal property and fixtures. Specific areas reviewed include conducting audits, processing business property statements, business equipment valuation, manufactured home assessments, aircraft assessments, and vessel assessments.

EXECUTIVE SUMMARY

We examined the assessment practices of the Mono County Assessor for the 2015-16 assessment roll. This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit – the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

In the area of administration, the assessor is effectively managing staffing, workload, and assessment appeals. However, we made recommendations for improvement in the welfare exemptions program.

In the area of real property assessment, the assessor has effective programs for declines in value, new construction and taxable government-owned property. However, we made recommendations for improvement in the change in ownership, California Land Conservation Act (CLCA) property, taxable possessory interests, and mineral property programs.

In the area of personal property and fixtures assessment, the assessor has effective programs for processing business property statements, as well as assessing business equipment, manufactured homes, aircraft, and vessels. However, we made recommendations for improvement in the audit program.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly, and that the overall quality of the assessment roll meets state standards.

We found no significant assessment problems as defined in Rule 371. Since Mono County was not selected for assessment sampling pursuant to Government Code section 15643(b), this report does not include the assessment ratios that are generated for surveys that include assessment sampling. Accordingly, pursuant to section 75.60, Mono County continues to be eligible for recovery of costs associated with administering supplemental assessments.

OVERVIEW OF MONO COUNTY

Mono County is located in the east-central portion of California to the east of the Sierra Nevada between Yosemite National Park and the State of Nevada. The county encompasses a total area of 3,132 square miles, which consists of 3,049 square miles of land, 94 percent of which is publicly owned land, and 83 square miles of water. Established in 1861, Mono County was created from portions of Calaveras, Mariposa, and Fresno Counties. Mono County is bounded on the north by Alpine County; on the west by Tuolumne, Madera, and Fresno Counties; on the south by Inyo County; and on the east by the state of Nevada.



As of 2015, Mono County's population was 13,909. Mono County has only one incorporated city, Mammoth Lakes. The county seat is Bridgeport. Some points of interest located in Mono County are Mono Lake and the California gold-mining ghost town of Bodie, which is a California State Historic Park.

Mono County's total assessment roll value ranks 43 among the 58 California counties for the 2015-16 assessment year, with a total assessed value of \$5,496,518,000.³

³ Information provided by the California State Board of Equalization Annual Report, Table 7, for year 2015-16.

FINDINGS AND RECOMMENDATIONS

As noted previously, our review concluded that the Mono County assessment roll meets the requirements for assessment quality established by section 75.60. This report does not provide a detailed description of all areas reviewed; it addresses only the deficiencies discovered.

Following is a list of the formal recommendations contained in this report.

- RECOMMENDATION 1:** Improve the administration of welfare exemptions by: (1) properly notifying claimants when a portion of the property is denied the welfare exemption, (2) properly applying late-filing provisions for welfare exemption claims that are not filed timely, (3) requiring a separate welfare exemption claim form for each property location and for each year claiming exemption, and (4) granting the welfare exemption only on property that is held in the name of the claimant holding a valid OCC.9
- RECOMMENDATION 2:** Improve the LEOP program by properly implementing the penalty process in accordance with section 482(b).....12
- RECOMMENDATION 3:** Improve the CLCA property program by: (1) using current market rents to estimate the income utilized in the valuation of restricted properties, and (2) using the annual Board-announced interest component when developing a capitalization rate.13

RECOMMENDATION 4: Improve the taxable possessory interests program by: (1) deducting allowed expenses from gross income when valuing taxable possessory interests by the direct income approach, (2) using proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests, (3) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, (4) discontinuing the use of section 401.10 mileage rates in the valuation of taxable possessory interests in intracounty pipeline rights-of-way on public lands, (5) ensuring that the value of a taxable possessory interest on taxable government-owned lands does not exceed the value limits as provided in Rule 29, (6) properly calculating supplemental assessments for taxable possessory interests, and (7) excluding newly created taxable possessory interests established by month-to-month agreements from supplemental assessment in accordance with section 75.5(b).15

RECOMMENDATION 5: Annually review mineral properties for declines in value in accordance with Rule 469.19

RECOMMENDATION 6: Improve the audit program by: (1) Properly identifying the pool of largest assessments for audit, (2) enrolling all escape assessments discovered during an audit, and (3) notifying the auditor-controller when penalties or interest should be added to an escape assessment.....20

ADMINISTRATION

Exemptions

Article XIII, section 1 of the California Constitution sets forth the general principle that all property is taxable unless otherwise provided. Section 3 of article XIII authorizes exemption of certain types of property from property taxation and section 4 authorizes the Legislature to exempt certain other types of property from property taxation.⁴

Our review of the assessor's exemptions program focused on the welfare exemption.

Welfare Exemption

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property owned and used exclusively for religious, hospital, or charitable purposes by organizations formed and operated exclusively for those purposes. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and county assessors.⁵ The BOE is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing either *Organizational Clearance Certificates* (OCCs) to qualified organizations or *Supplemental Clearance Certificates* (SCCs) to limited partnerships, which have a qualified organization as the managing general partner, that own and operate low-income housing. The assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the BOE or a valid SCC issued by the BOE if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner. The assessor may, however, deny an exemption claim based on non-qualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

We reviewed several welfare exemption claims and found areas where improvement is needed.

⁴ For a detailed description of the scope of our review of the Exemptions topic, please refer to the BOE's website at http://www.boe.ca.gov/Assessors/pdf/exemptions_general.pdf. In addition, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

⁵ Effective July 1, 2017, Assembly Bill 102, the Taxpayer Transparency and Fairness Act of 2017, restructured the BOE into three separate agencies: BOE, California Department of Tax and Fee Administration (CDTFA), and the Office of Tax Appeals. The welfare exemption function of determining an organization's eligibility for an OCC/SCC is part of CDTFA.

RECOMMENDATION 1: Improve the administration of welfare exemptions by: (1) properly notifying claimants when a portion of the property is denied the welfare exemption, (2) properly applying late-filing provisions for welfare exemption claims that are not filed timely, (3) requiring a separate welfare exemption claim form for each property location and for each year claiming exemption, and (4) granting the welfare exemption only on property that is held in the name of the claimant holding a valid OCC.

Properly notify claimants when a portion of the property is denied the welfare exemption.

We found that it is the assessor's practice not to notify the claimant when only a portion of the property is granted the welfare exemption.

Section 254.5(c)(2) provides that if the assessor finds the claimant's property ineligible for the welfare exemption, the assessor must notify the claimant in writing of that finding. The assessor must also provide notification that if the claimant disagrees with the findings, the organization may seek a refund of property taxes by filing a claim for refund with the county board of supervisors and if the claim for refund is denied, the organization may then file suit in superior court. By not issuing a finding sheet notifying claimants when a portion of the property is denied an exemption, the assessor is not providing proper notification to the claimant.

Properly apply late-filing provisions for welfare exemption claims that are not filed timely.

We found that the assessor does not properly apply late filing provisions when a claim is filed after the February 15 deadline. In some instances we found that the assessor was allowing the full exemption of the property, even though the claim had been filed late. In other instances, the assessor was applying a late-filing penalty by issuing a \$250 direct assessment to the claimant's annual tax bill for the property rather than allowing only a partial exemption. The assessor's practice of applying late filing penalties via a direct assessment charge is contrary to sections 270 and 271, which provide the method as to how late-filed claims are to be processed.

Section 255(a) provides that annual claims for the welfare exemption must be filed with the assessor between January 1 and 5 p.m. on February 15. Section 270 states that 90 percent of any tax, penalty, or interest will be cancelled or refunded if the claim is filed on or before January 1 of the next calendar year. If a claim is filed with the assessor after January 1 of the next calendar year, then 85 percent of any tax, penalty, or interest shall be cancelled or refunded. However, section 270(b) provides that any tax, penalty, or interest may not exceed \$250.

Further, section 271(a) provides that a welfare exemption claim filed on property acquired after the lien date is considered filed timely if filed within 90 days from the first day of the month following the month in which the property was acquired or by February 15 of the following calendar year, whichever occurs earlier. If the claimant does not file within the prescribed time period, but files later, then 85 percent of any tax, penalty, or interest is cancelled or refunded. In addition, section 271(c) provides that any tax, penalty, or interest imposed may not exceed \$250.

By not properly applying late-filing provisions on welfare exemption claims, the assessor is not in compliance with statutory requirements.

Require a separate welfare exemption claim form for each property location and for each year claiming exemption.

We found that the assessor does not require claimants to submit a separate welfare exemption claim form for each property location. The assessor accepts one annual claim form by a claimant for multiple properties, even though the properties are not contiguous. In addition, we found instances where the claimant did not file an annual claim form for a particular property, but was still granted the full exemption for that year.

Section 255(a) specifies that an affidavit for exemption shall be filed with the county assessor between the lien date (January 1 at 12:01am) and 5 p.m. on February 15. Section 260 provides that if a claimant fails to follow the required procedure, the exemption is deemed waived for that year. Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*, provides that if an organization is claiming exemption for property at more than one location, a separate claim form must be submitted for each location. The information reported on each claim form must pertain only to the real and/or personal property at that location. When filing for multiple years and/or multiple properties, the claimant must submit a separate claim for each property location, for each fiscal year for which the exemption is claimed. An exception is provided when the property consists of contiguous parcels of land with the same use and ownership, such as a nature conservatory or land trust. Further, claim form BOE-267-A, *Claim For Welfare Exemption (Annual Filing)*, and the instructions page of claim form BOE-267, *Claim For Welfare Exemption (First Filing)*, state that a separate claim form is required for each property location for which the claimant is seeking exemption.

Granting the welfare exemption without an annual filing for each property owned by the claimant when the parcels are not contiguous or considered to be one appraisal unit, is contrary to required procedure and may leave the assessor without critical information on the current usage of each property seeking exemption, which is needed in order to determine eligibility or continued eligibility for the exemption.

Grant the welfare exemption only on property that is held in the name of the claimant holding a valid OCC.

We found instances where the assessor granted the welfare exemption on property that was not held in the name of the claimant that holds a valid Organizational Clearance Certificate (OCC).

Section 261(a) provides, in part, "...as a prerequisite to the allowance of either the veterans' or welfare exemption with respect to taxes on real property, the interest of the claimant in the property must be of record on the lien date in the office of the recorder of the county in which the property is located. Failure of the claimant to establish the fact of such recordation to the assessor constitutes a waiver of the exemption." The assessor granting an exemption on property not held in the name of the claimant holding a valid OCC is contrary to statute and may result in the exemption of ineligible property.

ASSESSMENT OF REAL PROPERTY

Change in Ownership

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of a change in ownership for property tax purposes. Section 50 requires the assessor to enter a base year value on the roll for the lien date next succeeding the date of the change in ownership; a property's base year value is its fair market value on the date of the change in ownership.⁶

We examined several recorded documents and found that the assessor conducts a proper and thorough review of recorded documents. In addition, we reviewed several property records involving a recent change in ownership and found that the assessor is following proper valuation procedures.

Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership interest in a legal entity.

To assist assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property.⁷ On a monthly basis, LEOP transmits to each county assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported by the person or entity filing information with the BOE, LEOP advises assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting of legal entity changes in control under section 64(c) and changes in ownership under

⁶ For a detailed description of the scope of our review of the Change in Ownership topic, please refer to the BOE's website at http://www.boe.ca.gov/Assessors/pdf/cio_general.pdf. In addition, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

⁷ Effective July 1, 2017, Assembly Bill 102, the Taxpayer Transparency and Fairness Act of 2017, restructured the BOE into three separate agencies: BOE, California Department of Tax and Fee Administration (CDTFA), and the Office of Tax Appeals. LEOP is part of CDTFA.

section 64(d). A change in ownership statement must be filed with the BOE within 90 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. Section 482(b) provides for application of a penalty if a person or legal entity required to file a statement under sections 480.1 and 480.2 does not do so within 90 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE. The BOE advises county assessors of entities that are subject to penalty, so they can impose the applicable penalty to the entity's real property.

The assessor discovers changes in control or ownership of legal entities by reviewing monthly LEOP reports from the BOE, business property statements, business licenses, newspaper publications, and the Internet.

When the assessor receives the monthly LEOP reports, the administrative services specialist reviews the report for the effective date and any changes that have occurred. Parcels within the county listed by entity on the LEOP report are identified and reviewed. Once a change in control or ownership of a legal entity has been confirmed and processed for a reappraisable event, the information is routed to an appraiser for valuation.

We reviewed several properties involving a change in control or ownership and found an area in need of improvement.

RECOMMENDATION 2: Improve the LEOP program by properly implementing the penalty process in accordance with section 482(b).

We found several instances where penalties were not applied when an entity failed to file a BOE-100-B or filed a BOE-100-B late, even though the assessor had been notified by the BOE's LEOP section to apply the penalty.

Sections 480.1 and 480.2 require the filing of a signed BOE-100-B whenever a legal entity has undergone a change in control or ownership. Section 482(b) provides that if a person or legal entity fails to file a BOE-100-B within 90 days of a change in control or ownership or within 90 days of a written request from the BOE, whichever occurred earlier, they are subject to a 10 percent penalty.

The BOE provides the assessor with several reports, as well as copies of BOE-100-Bs, indicating whether a penalty applies. The assessor should review these reports and the BOE-100-Bs to identify entities with late-filings or failures to file and apply penalties accordingly. By failing to apply the required section 482(b) penalty, the assessor is not following statutory requirements.

California Land Conservation Act Property

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based upon

agricultural income-producing ability (including income derived from compatible uses, such as hunting rights and communications facilities). Such lands must be assessed at the lowest of the restricted value, current market value, or factored base year value.⁸

For the 2015-16 roll year, Mono County had 52 parcels encumbered by nine CLCA contracts, totaling 13,349.5 acres. The total assessed value including land and improvements was \$13,658,089. All nine contracts were created at the inception of the Mono County CLCA program and are still active.

We reviewed several CLCA property records and found areas in need of improvement.

RECOMMENDATION 3: Improve the CLCA property program by: (1) using current market rents to estimate the income utilized in the valuation of restricted properties, and (2) using the annual Board-announced interest component when developing a capitalization rate.

Use current market rents to estimate the income utilized in the valuation of restricted properties.

We found that for the last several years, the assessor has been using the same rents to value CLCA properties. Review of Inyo and Mono Counties Agricultural Commissioner's Office *Crop and Livestock Reports* for years 2010 through 2014 indicates that some market rents have been increasing, as well as others decreasing, over the past five years.

Section 423 provides that the fair rent attributable to the land being valued shall be based upon rent actually received for the land by the owner and upon typical rents received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.

By not using market rents to value CLCA properties pursuant to section 423, the assessor may be overassessing or underassessing CLCA properties.

Use the annual Board-announced interest component when developing a capitalization rate.

We found that the assessor applied an incorrect interest component when developing the capitalization rate to be used in calculating the CLCA property valuations for the 2015 lien date. Instead of using the BOE's annually announced interest component of 3.25 percent for the 2015 lien date, the assessor used the 2014 interest component of 3.5 percent.

⁸ For a detailed description of the scope of our review of the California Land Conservation Act (CLCA) Property topic, please refer to the BOE's website at http://www.boe.ca.gov/Assessors/pdf/clca_general.pdf. In addition, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

Section 423(b) provides that the capitalization rate to be used in valuing CLCA land shall not be derived from sales data, but shall be the sum of the following components: (1) an interest component to be determined and announced by the BOE no later than October 1 of the year preceding the assessment year, (2) a component for risk, (3) a component for property taxes, and (4) a component for amortization of any investment in perennials, if applicable. Prior to each lien date, the BOE issues a Letter To Assessors (LTA) to announce the interest component to be used in the valuation of CLCA lands for the coming lien date.

By using an incorrect interest component to derive capitalization rate to be used to calculate CLCA land values for the lien date, the assessor is not in compliance with statutes and is enrolling incorrect assessments. Once the annual interest component is announced, the assessor should update his CLCA computer program with the correct interest component in order to accurately determine CLCA assessments.

Taxable Possessory Interests

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.⁹

For the 2015-16 roll year, the assessor enrolled 810 taxable possessory interests with a total assessed value of \$336,563,221. The majority of the taxable possessory interests in Mono County are privately owned cabins on U.S. Forest Service (USFS) lands. Other types of taxable possessory interests in Mono County include, but are not limited to, employee housing, grazing permits, privately owned hangars at publicly owned airports, campgrounds, and cable television.

We reviewed several taxable possessory interest assessments and found several areas in need of improvement.

⁹ For a detailed description of the scope of our review of the Taxable Possessory Interest topic, please refer to the BOE's website at http://www.boe.ca.gov/Assessors/pdf/tpi_general.pdf. In addition, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

RECOMMENDATION 4: Improve the taxable possessory interests program by: (1) deducting allowed expenses from gross income when valuing taxable possessory interests by the direct income approach, (2) using proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests, (3) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, (4) discontinuing the use of section 401.10 mileage rates in the valuation of taxable possessory interests in intracounty pipeline rights-of-way on public lands, (5) ensuring that the value of a taxable possessory interest on taxable government-owned lands does not exceed the value limits as provided in Rule 29, (6) properly calculating supplemental assessments for taxable possessory interests, and (7) excluding newly created taxable possessory interests established by month-to-month agreements from supplemental assessment in accordance with section 75.5(b).

Deduct allowed expenses from gross income when valuing taxable possessory interests by the direct income approach.

When valuing taxable possessory interests by the direct income approach, the assessor capitalizes the gross rental income without making any deductions from the gross rental income for management and other operating expenses incurred by the public lessor.

Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), provides that allowed expenses paid by the public owner should be deducted from the estimated economic rent. Also, Rule 21 provides that in the direct income approach, the amount to be capitalized to arrive at a value estimate is the future net income the taxable possessory interest is capable of generating under typical, prudent management during the term of possession. Further, Rule 8(c) provides that it is appropriate to reduce a lessor's gross rental income for typical management and other property-related expenses incurred by the lessor.

A public owner will incur at least some management expense with each taxable possessory interest. Some lease agreements may require the public owner to pay for insurance, maintenance, or utilities. By not recognizing these allowable expenses and deducting them from the gross income to be capitalized, the assessor may be overstating the value of these taxable possessory interests.

Use proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests.

The assessor uses several components to develop a capitalization rate when valuing taxable possessory interests. The assessor incorrectly applies either the annual open-space land interest component recommended by the BOE or a 10-year treasury yield rate, and then adds a

component for risk, in some cases a component for property taxes, and a component for public administration fees to develop an overall capitalization rate.

According to AH 510, and consistent with Rule 8, a capitalization rate for valuing a taxable possessory interest may be developed using any of the following methods:

- By comparing the anticipated net incomes from comparable taxable possessory interests with their sale prices stated in cash or its equivalent and adjusted as described in Rule 21(e)(1)(A).
- By comparing anticipated net incomes of comparable fee simple absolute interests in real property with their sale prices stated in cash or its equivalent, provided the comparable fee properties are not expected to produce significantly higher net incomes subsequent to the subject taxable possessory interest's term of possession than during it.
- By deriving a weighted average of capitalization rates for debt and equity capital appropriate for the subject taxable possessory interest, weighting the separate rates of debt and equity by the relative amounts of debt and equity capital expected to be used by a typical purchaser of the subject taxable possessory interest.

Also consistent with Rule 8(f), the capitalization rate should include a component for property taxes, where applicable. According to AH 510, when the landlord (lessor) is responsible for paying the property taxes, the capitalization rate should include a component for property taxes. However, if the tenant is responsible for paying the property taxes in addition to rent, the capitalization rate should not include a component for property taxes.

Using an improper method to develop a capitalization rate when valuing taxable possessory interests may cause the assessor to apply an inappropriate capitalization rate and enroll incorrect assessments.

Periodically review all taxable possessory interests with stated terms of possession for declines in value.

We reviewed several taxable possessory interests with stated terms of possession and found several instances where these taxable possessory interests were not reviewed for possible declines in value. Instead, the assessor enrolled the factored base year value (FBYV) until the contract term of possession expired or there was a change in ownership.

Rule 21(d)(1) states, in part, "The stated term of possession shall be deemed the reasonably anticipated term of possession unless it is demonstrated by clear and convincing evidence that the public owner and the private possessor have reached a mutual understanding or agreement, whether or not in writing, such that the reasonably anticipated term of possession is shorter or longer than the stated term of possession. If so demonstrated, the term of possession shall be the stated term of possession as modified by the terms of the mutual understanding or agreement."

Rule 21(a)(6) defines the stated term of possession for a taxable possessory interest as of a specific date as "...the remaining period of possession as of that date as specified in the lease, agreement, deed, conveyance, permit, or other authorization or instrument that created, extended,

or renewed the taxable possessory interest, including any option or options to renew or extend the specified period of possession if it is reasonable to assume that the option or options will be exercised." Therefore, the stated term of possession declines each year. This may or may not have a material effect on the market value of the possessory interest. Thus, absent clear and convincing evidence of a mutual understanding or agreement as to a shorter or longer term of possession, the assessor must estimate the current market value of the taxable possessory interest on lien date based on the remaining stated term of possession, compare this value to the FBV, and enroll the lower of the two values.

Although the assessor is not required to reappraise all properties each year, the assessor should develop a program to periodically review assessments of taxable possessory interests with stated terms of possession to ensure declines in value are consistently recognized. Failure to periodically review taxable possessory interests for possible declines in value may cause the assessor to overstate the taxable value of a taxable possessory interest.

Discontinue the use of section 401.10 mileage rates in the valuation of taxable possessory interests in intracounty pipeline rights-of-way on public lands.

There are two natural gas companies that supply propane to property owners in the town of Mammoth Lakes. Each company distributes the gas through a network of pipelines located underground in land owned by the town of Mammoth Lakes. Each gas company pays the town a franchise fee to operate their distribution system. The use of these public rights-of-way constitutes a taxable possessory interest. The assessor is incorrectly using the mileage rates specified under section 401.10 as the basis for the valuation of these taxable possessory interests.

Section 401.10 was enacted to specifically address the valuation and equalization of intercounty pipeline rights-of-way. However, in Mono County, the pipeline rights-of-way in question are intracounty pipeline rights-of-way, not intercounty, and valuation of these types of pipeline rights-of-way is not provided for under section 401.10. Intracounty pipeline rights of way in publicly-owned lands should be valued using any of the valuation methods for taxable possessory interests prescribed in subsection (e) of Rule 21. The assessor's current method of valuation of intracounty pipeline rights-of-way is contrary to statute and may result in incorrect assessments being enrolled.

Ensure that the value of a taxable possessory interest on taxable government-owned lands does not exceed the value limits as provided in Rule 29.

We reviewed a number of assessments of taxable possessory interests located on taxable government-owned (section 11) lands and found the assessor valued these taxable possessory interests by using the direct income method. However, the assessor did not calculate the value limit for these taxable possessory interests as set forth in Rule 29 to ensure that the assessed values did not exceed the prescribed limits.

Mono County has numerous parcels assessed pursuant to section 11 of article XIII of the California Constitution. Section 11 lands are lands owned by public entities which are located outside of their jurisdiction and are taxable if they were taxable when acquired by the public entity. Even though these lands are being assessed and taxed under section 11 to the public

entity, private uses on section 11 land may also be taxable. Rule 29 sets a limit on the value to be no more than the difference between the fair market value of the taxable government-owned real property on the lien date and the section 11 value of the taxable government-owned real property on the lien date.

By not calculating the value limitation amount to determine the maximum assessment of these taxable possessory interests, the assessor may be overassessing taxable possessory interests located on section 11 lands.

Properly calculate supplemental assessments for taxable possessory interests.

We reviewed a number of taxable possessory interest appraisals made due to a change in ownership. We found that the assessor correctly enrolls a base year value and issues a supplemental assessment. However, the assessor improperly offsets the new base year value against the existing roll value when calculating the amount of the supplemental assessment.

Section 61(b) provides that the creation, renewal, extension, or assignment of a taxable possessory interest is a change in ownership. Section 75.11 provides that there shall be a supplemental assessment following a change in ownership or completed new construction. In addition, AH 510 gives guidance for a supplemental assessment issued due to a change in ownership. There should not be a negative supplemental assessment for the taxable possessory interest that terminated, and the supplemental assessment amount for the newly created taxable possessory interest should be based on its fair market value without offset for a prior value on the regular assessment roll when one taxable possessory interest is terminated during an assessment year and a second (but distinct) taxable possessory interest is created involving the same land and improvements during the same assessment year.

The assessor's failure to correctly calculate supplemental assessments is contrary to BOE guidance and may result in a loss of revenue.

Exclude newly created taxable possessory interests established by month-to-month agreements from supplemental assessment in accordance with section 75.5(b).

We found several instances where the assessor issued supplemental assessments on newly created taxable possessory interests, which were established by month-to-month agreements and had a full cash value of \$50,000 or less.

Section 75.5(b) excludes from supplemental assessment a newly created taxable possessory interest that is established by a month-to-month agreement and has a full cash value of \$50,000 or less.

The assessor's practice is contrary to statutory provisions.

Mineral Property

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are

Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.¹⁰

In Mono County, there is one active mining property, one high temperature geothermal property, and over 11,000 unpatented mining claims. After reviewing the assessor's mineral property program, we have the following recommendation:

RECOMMENDATION 5: Annually review mineral properties for declines in value in accordance with Rule 469.

In the past, mining properties were appraised by a hired mineral consultant. Due to budget constraints, the assessor no longer contracts with this mineral consultant. As a result, the mining properties are no longer being annually reviewed for possible declines in value. Instead, the assessor enrolls the factored base year value each year and no adjustment has been made to the base year value of the property to account for production as required by Rule 469.

Under article XIII A of the California Constitution, all real property receives a base year value and, on each lien date, the taxable value of the real property unit should be the lesser of its adjusted base year value or its current market value. Rule 469(e)(2)(C) provides that declines in value are to be recognized when the current market value of the appraisal unit is less than the adjusted base year value of the same appraisal unit. In addition, Rule 469 requires that the adjusted base year value be adjusted to account for depletion that occurs during the production of the mineral resource.

Failure to annually review mining properties for potential declines in value may cause the assessor to overassess these producing mineral properties.

¹⁰ For a detailed description of the scope of our review of the Mineral Property topic, please refer to the BOE's website at http://www.boe.ca.gov/Assessors/pdf/mineralprop_general.pdf. In addition, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

Audit Program

County assessors are required to annually conduct a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted during the 2002-03 fiscal year to the 2005-06 fiscal year, with 50 percent of those to be selected from a pool of those taxpayers with the largest assessments.¹¹

For Mono County, the minimum required number of audits to be conducted each year is two, with the additional requirement that 50 percent of those audits are to be performed on taxpayers selected from the pool of those taxpayers that have the largest assessments of locally assessable trade fixtures and business tangible personal property in the county.¹² The assessor has budgeted one auditor-appraiser, who conducts all audits except for those that are contracted through the intercounty cooperative property tax audit program referred to as the California Counties Cooperative Audit Services Exchange (CCCASE) program. Through the CCCASE program, certified auditor-appraisers from other counties conduct the audits. The assessor then reviews the audit results.

The assessor completed a total of 3 audits for the 2011-12 fiscal year, 0 audits for the 2012-13 fiscal year, 3 audits for the 2013-14 fiscal year and 3 audits for the 2014-15 fiscal year.

We reviewed the assessor's audit program and found areas where improvement is needed.

RECOMMENDATION 6: Improve the audit program by: (1) Properly identifying the pool of largest assessments for audit, (2) enrolling all escape assessments discovered during an audit, and (3) notifying the auditor-controller when penalties or interest should be added to an escape assessment.

Properly identify the pool of largest assessments for audit.

The assessor did not conduct the minimum number of audits as required under the provisions of section 469 three out of the past four years. The assessor generates a list of business accounts that have assessments of \$400,000 or more and uses this list as the pool of taxpayers with the largest assessments from which 50% of the required number of taxpayer audits are to be selected each year. This results in a pool that incorrectly contains all taxpayers that have assessments of \$400,000 or more rather than a pool that contains the top four taxpayers that have assessments of

¹¹ For a detailed description of the scope of our review of the Audit Program topic, please refer to the BOE's website at http://www.boe.ca.gov/Assessors/pdf/auditprogram_general.pdf. In addition, detailed descriptions of assessment practices survey topics, authoritative citations, and related information can be found at <http://www.boe.ca.gov/proptaxes/apscont.htm>.

¹² Refer to Letter To Assessors LTA 2009/049, *Significant Number of Business Property Audits*.

\$400,000 or more as required under section 469. The assessor then selects two taxpayers to audit from this list as the pool of \$400,000 or more assessments and two from the remaining list of all other taxpayers. However, the assessor is only required to annually conduct two audits, one of which must be selected from the pool of taxpayers with the largest assessments.

Section 469 provides that the assessor shall annually conduct a significant number of audits, with 50 percent of those audits to be performed on taxpayers selected from a pool of taxpayers with the largest assessments. Section 469 provides that each year the assessor shall rank all taxpayers engaged in a profession, trade, or business in descending order based on the total locally assessed value of both their trade fixtures and business tangible personal property in order to determine the pool of taxpayers with the largest assessments. The remaining 50 percent of the required taxpayer audits shall be selected in a fair and equitable manner.

In accordance with section 469(b)(1)(A)(ii), the assessor's pool of taxpayers with the largest assessments should contain no more than four taxpayers. The assessor's current list of taxpayers with the largest assessments contains substantially more taxpayers than the statutorily mandated four taxpayers, and cause taxpayers from outside the legitimate pool of taxpayers with the largest assessments to be incorrectly included in the pool of taxpayers with the largest assessments.

The assessor's current procedure to determine the pool of taxpayers with the largest assessments for annual audit selection purposes is not in compliance with section 469.

Enroll all escape assessments discovered during an audit.

We found that the assessor does not enroll low-value escape assessments discovered during an audit of \$1,000 or less. The assessor does not have an ordinance in place giving him this authority.

Section 531.9 permits a county board of supervisors to adopt an ordinance to prohibit an assessor from making escape assessments when the amount of taxes due is less than the cost of assessing and collecting them. The ordinance may not apply to an escape assessment that results in the amount of taxes due to be in excess of \$50. Mono County currently does not have such an ordinance.

The assessor's practice is contrary to statute and may cause unequal treatment of taxpayers.

Notify the auditor-controller when interest should be added to an escape assessment.

When an escape assessment is discovered during the course of an audit, we found that the assessor prepares an assessment roll change and correctly applies a penalty when appropriate; however, the assessor does not apply the interest pursuant to section 506 when appropriate.

Section 531 provides that if any property belonging on the local roll has escaped assessment, the assessor shall assess the property upon discovery at its value on the lien date for the year for which it escaped assessment. Section 531 further provides that property shall be deemed to have escaped assessment when its owner fails to file a property statement pursuant to the provisions of section 441, to the extent that it results in no assessment or an assessment at a lower value than would have been determined had the property been properly reported. Escape assessments made

as the result of an owner's failure to file a property statement shall be subject to the penalty and interest imposed by sections 463 and 506. Further, sections 531.3 and 531.4 provide that if the owner's omission or failure to report is willful or fraudulent, the penalty and interest provided in sections 504 and 506 shall be added to the additional assessment; otherwise, only the interest provided in section 506 shall be added.

The assessor's practice is contrary to statute and may cause unequal treatment of taxpayers.

APPENDIX A: STATISTICAL DATA

Table 1: Assessment Roll

The following table displays information pertinent to the 2015-16 assessment roll:¹³

	PROPERTY TYPE	ENROLLED VALUE
Secured Roll	Land	\$1,874,536,768
	Improvements	\$3,245,848,513
	Personal Property	\$32,075,617
	Total Secured	\$5,152,460,898
Unsecured Roll	Land	\$66,382,933
	Improvements	\$268,534,997
	Personal Property	\$57,927,766
	Total Unsecured	\$392,845,696
Exemptions¹⁴		(\$48,788,298)
	Total Assessment Roll	\$5,496,518,296

Table 2: Change in Assessed Values

The next table summarizes the change in assessed values over recent years:¹⁵

YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2015-16	\$5,496,518,000	2.1%	6.0%
2014-15	\$5,383,414,000	1.7%	6.2%
2013-14	\$5,294,130,000	-0.4%	4.3%
2012-13	\$5,314,768,000	-1.4%	1.4%
2011-12	\$5,392,223,000	-2.5%	0.1%

¹³ Statistics provided by BOE-822, *Report of Assessed Values By City*, 26 Mono County, for year 2015.

¹⁴ The value of the Homeowners' Exemption is excluded from the exemptions total.

¹⁵ Statistics provided by the California State Board of Equalization Annual Report, Table 7.

Table 3: Gross Budget and Staffing

The assessor's budget has been decreasing over the past five years, from \$1,810,332 in 2011-12 to \$945,811 in 2015-16.

As of the date of our survey, the assessor had 7 budgeted permanent positions. These positions consisted of the assessor, 1 auditor appraiser, 3 real property appraisers, 1 fiscal technical specialist, and 1 administrative services specialist.¹⁶

The following table sets forth the assessor's gross budget and staffing over recent years:

BUDGET YEAR	GROSS BUDGET¹⁷	PERCENT CHANGE	PERMANENT STAFF¹⁸
2015-16	\$945,811	-13.8%	7
2014-15	\$1,096,797	-12.8%	7
2013-14	\$1,257,157	-12.2%	9
2012-13	\$1,430,999	-21.0%	9
2011-12	\$1,810,332	-3.9%	11

Table 4: Assessment Appeals

The following table shows the number of assessment appeals filed in recent years:¹⁹

YEAR	ASSESSMENT APPEALS FILED
2015-16	62
2014-15	73
2013-14	108
2012-13	149
2011-12	104

¹⁶ Information obtained from *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for year 2015-16.

¹⁷ Statistics provided by the Mono County Budget, Schedule 9.

¹⁸ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices*.

¹⁹ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices*.

Table 5: Exemptions – Welfare

The following table shows welfare exemption data for recent years:²⁰

YEAR	WELFARE EXEMPTIONS	EXEMPTED VALUE
2015-16	40	\$37,267,784
2014-15	36	\$34,485,757
2013-14	31	\$33,917,588
2012-13	30	\$32,809,917
2011-12	28	\$30,553,535

Table 6: Change in Ownership

The following table shows the total number of changes in ownership processed in recent years:²¹

YEAR	REAPPRAISABLE TRANSFERS
2015-16	785
2014-15	870
2013-14	824
2012-13	852
2011-12	632

²⁰ Statistics provided by BOE-802, *Report on Exemptions*, for years 2011 through 2015.

²¹ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2011-12 through 2015-16.

Table 7: New Construction

The following table shows the total number of new construction assessments processed in recent years:²²

YEAR	NEW CONSTRUCTION ASSESSMENTS
2015-16	143
2014-15	129
2013-14	118
2012-13	101
2011-12	104

Table 8: Declines In Value

The following table shows the total number of decline-in-value assessments in recent years:²³

YEAR	DECLINE-IN-VALUE ASSESSMENTS
2015-16	4,671
2014-15	4,502
2013-14	4,215
2012-13	4,349
2011-12	5,266

²² Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2011-12 through 2015-16.

²³ Statistics provided by *A Report on Budgets, Workloads, and Assessment Appeals Activities in California Assessors' Offices* for years 2011-12 through 2015-16.

APPENDIX B: COUNTY-ASSESSED PROPERTIES DIVISION SURVEY GROUP

Mono County

Chief

David Yeung

Survey Program Director:

Diane Yasui

Manager, Property Tax

Survey Team Supervisor:

Teresa Quento

Supervisor, Property Tax

Survey Team Leader:

Andrew Austin

Supervisor, Property Tax

Survey Team:

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Teresa Nguyen

Business Taxes Specialist I

Gary Coates

Associate Property Appraiser

Lee Coleman

Associate Property Appraiser

Jay Price

Associate Property Appraiser

Eric Santana

Assistant Property Appraiser

Paula Montez

Associate Property Auditor-Appraiser

APPENDIX C: RELEVANT STATUTES AND REGULATIONS

Reference	
<i>Government Code</i>	
§15640	Survey by board of county assessment procedures.
§15641	Audit of records; appraisal data not public.
§15642	Research by board employees.
§15643	When surveys to be made.
§15644	Recommendations by board.
§15645	Survey report; final survey report; assessor's report.
§15646	Copies of final survey reports to be filed with local officials.
<i>Revenue and Taxation Code</i>	
§75.60	Allocation for administration.
<i>Title 18, California Code of Regulations</i>	
Rule 370	Random selection of counties for representative sampling.
Rule 371	Significant assessment problems.

ASSESSOR'S RESPONSE TO BOE'S FINDINGS

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendations in the survey report. The Mono County Assessor's response begins on the next page.

Section 15645 also allows the Board to include in the report comments regarding the assessor's response. Our comments follow the assessor's response.



**OFFICE OF THE ASSESSOR
COUNTY OF MONO**

P.O. BOX 456, BRIDGEPORT, CALIFORNIA 93517

**BARRY BECK, ASSESSOR
(760) 932-5510 FAX (760) 932-5511**

RECEIVED

AUG 02 2017

**County-Assessed Properties Division
State Board of Equalization**

July 24, 2017

Mr. David Yeung, Chief
County-Assessed Properties Division
Property Tax Department
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0064

Re: Mono County Assessment Practices Survey Response

Dear Mr. Yeung:

I have reviewed the 2017 Mono County Assessment Practices Survey and the recommendations therein. Attached you will find my response to the recommendations pursuant to Section 15645 of the Government Code. Please include my response in the final survey report.

We appreciate the diligence and efforts put forth by the survey crew, and the recommendations and constructive comments that were made based on this diligence.

More importantly, I wish to sincerely thank the staff of the Mono County Assessor's Office for their commitment, hard work, dedication, and professionalism in service to the citizens of Mono County. The very positive survey results are proof of their efforts.

Please see my responses to the California State Board of Equalization recommendations below.

Respectfully,

Barry Beck
Mono County Assessor



Recommendation 1:

Improve the administration of welfare exemptions by:

- (1) Properly notifying claimants when a portion of the property is denied the welfare exemption;
- (2) Properly applying late-filing provisions for welfare exemption claims that are not filed timely;
- (3) Requiring a separate welfare exemption claim form for each property location and for each year claiming exemption, and;
- (4) Granting the welfare exemption only on property that is held in the name of the claimant holding a valid OCC.

Response:

- (1) We concur, and have already instituted this recommendation.
- (2) We concur, and have already instituted this recommendation.
- (3) We concur, and have already instituted this recommendation.
- (4) We concur, and have already instituted this recommendation.

Recommendation 2:

Improve the LEOP (Legal Entity Ownership Program) by properly implementing the penalty process in accordance with Section 482(b).

Response:

The Assessor agrees that late-filing penalties may be appropriate, and that the best source of information on entities that have not filed timely is the monthly BOE report indicating whether a penalty applies.

Recommendation 3:

Improve the CLCA property program by:

- (1) Using current market rents to estimate the income utilized in the valuation of restricted properties, and;
- (2) Using the annual Board-announced interest component when developing a capitalization rate.

Response:

- (1) We concur, and have already instituted this recommendation.
- (2) We concur, and have already instituted this recommendation.

Recommendation 4:

Improve the taxable possessory interests program by:

- (1) Deducting allowed expenses from gross income when valuing taxable possessory interests by the direct income approach;
- (2) Using proper methods to develop the appropriate capitalization rate when valuing taxable possessory interests;

- (3) Periodically reviewing all taxable possessory interests with stated terms of possession for declines in value;
- (4) Discontinuing the use of section 401.10 mileage rates in the valuation of taxable possessory interests in intra-county pipeline rights-of-way on public lands;
- (5) Ensuring that the value of a taxable possessory interest on taxable government-owned lands does not exceed the value limits as provided in Rule 29;
- (6) Properly calculating supplemental assessments for taxable possessory interests, and;
- (7) Excluding newly created taxable possessory interests established by month-to-month agreements from supplemental assessment in accordance with section 75.5.

Response:

- (1) We concur, and have already instituted this recommendation.
- (2) We concur, and have already instituted this recommendation.
- (3) We concur, and have already instituted this recommendation.
- (4) We concur, and have already instituted this recommendation.
- (5) We do not agree with this recommendation. Article XIII, Section 11 of the California Constitution provides that for lands located in Inyo and Mono counties, a prescribed value derived from a specific formula ("the Phillips Factor formula") as set forth in Section 11 and based upon the 1966 assessed value of the lands if located in Inyo County, or on the 1967 assessed value of the lands if located in Mono County, is appropriate. For lands located in all other counties, Section 11 prescribes a value standard requiring assessment at the lower of current fair market value or the value determined by applying the Phillips Factor to the 1967 assessed value.

Under *City and County of San Francisco v. County of San Mateo et al.* (1995) 10 Cal. 4th 554 the value limitations of Article XIII of the Constitution apply to Section 11 lands in counties other than Inyo and Mono. Thus, the value standard applicable to Section 11 assessments in those counties (excluding Mono) is the lowest of (1) the current fair market value, (2) the factored base year value, or (3) the 1967 assessed value multiplied by the appropriate Phillips Factor.

- (6) We agree, and we are working toward implementation of the BOE recommendations.
- (7) We do not agree with this recommendation; The month-to-month taxable possessory interests in Mono County consist primarily of United States Forest Service (USFS) employees renting government-owned housing, and usage history supports an anticipated term of 3 years. While these properties may be leased month-to-month, they typically have an anticipated term of 3 years, so these properties are not exempt from supplemental assessment under Section 75.5(b), as exempting these assessments from a supplemental assessment would avoid the intent of the code section.

Recommendation 5:

Annually review mineral properties for declines in value in accordance with Rule 469.

Response:

We agree, and will work toward implementation of this recommendation.

Recommendation 6:

Improve the audit program by:

- (1) Properly identifying the pool of largest assessments for audit;
- (2) Enrolling all escape assessments discovered during an audit;
- (3) Notifying the auditor-controller when penalties or interest should be added to an escape assessment.

Response:

- (1) We agree, and were aware of this shortfall in our audit program. The issue stems from our inability to attract a qualified Auditor-Appraiser to the staff at the Mono County Assessor's Office, though the position is allocated and approved, and has been widely advertised.
- (2) We agree, please see the response to Recommendation 6(1) above.
- (3) We agree, please see the response to Recommendation 6(1) above.

BOE COMMENTS TO ASSESSOR'S RESPONSE

Recommendation 4, part 5: Improve the taxable possessory interests program by: (5) ensuring that the value of a taxable possessory interest on taxable government-owned lands does not exceed the value limits as provided in Rule 29.

Assessor's Response: (5) We do not agree with this recommendation. Article XIII, Section 11 of the California Constitution provides that for lands located in Inyo and Mono counties, a prescribed value derived from a specific formula ("the Phillips Factor formula") as set forth in Section 11 and based upon the 1966 assessed value of the lands if located in Inyo County, or on the 1967 assessed value of the lands if located in Mono County, is appropriate. For lands located in all other counties, Section 11 prescribes a value standard requiring assessment at the lower of current fair market value or the value determined by applying the Phillips Factor to the 1967 assessed value.

Under *City and County of San Francisco v. County of San Mateo et al.* (1995) 10 Cal. 4th 554 the value limitations of Article XIII of the Constitution apply to Section 11 lands in counties other than Inyo and Mono. Thus, the value standard applicable to Section 11 assessments in those counties (excluding Mono) is the lowest of (1) the current fair market value, (2) the factored base year value, or (3) the 1967 assessed value multiplied by the appropriate Phillips Factor.

BOE Comments to Assessor's Response on Recommendation 4, part 5:

The Board's recommendation relates to the valuation of possessory interests and not of section 11 land. When the assessor values a possessory interest on section 11 land, the value of the possessory interest is subject to the limitations of Rule 29. Rule 29 sets a limit on the value of the possessory interest to be no more than the difference between the fair market value of the taxable government-owned real property on the lien date and the section 11 value of the taxable government-owned real property on the lien date.

Recommendation 4, part 7: Improve the taxable possessory interest program by: (7) excluding newly created taxable possessory interests established by month-to-month agreements from supplemental assessment in accordance with section 75.5(b).

Assessor's Response: (7) We do not agree with this recommendation. The month-to-month taxable possessory interests in Mono County consist primarily of United States Forest Service (USFS) employees renting government-owned housing, and usage history supports an anticipated term of 3 years. While these properties may be leased month-to-month, they typically have an anticipated term of 3 years, so these properties are not exempt from supplemental assessment under section 75.5(b), as exempting these assessments from a supplemental assessment would avoid the intent of the code section.

BOE Comments to Assessor's Response on Recommendation 4, part 7:

Section 75.5 exempts possessory interest established by month-to-month agreement from supplemental assessment. When a possessory interest has a month-to-month tenancy, the

assessor is correct to impute a reasonably anticipated term. In this case, the assessor has determined a 3-year term based on historical usage. However, the imputed term is for valuation purposes only. The imputed term of possession determines the duration of the net income to be capitalized when valuing the possessory interest. It does not change the month-to-month tenancy of the lease nor the statutory requirement that month-to-month possessory interest shall not be supplementally assessed.