



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082
949 241-9846 • FAX 916-323-3387
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

SEN. GEORGE RUNNER (RET.)
Second District, Lancaster

MICHELLE STEEL
Third District, Orange County

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

CYNTHIA BRIDGES
Executive Director

October 12, 2012

Honorable
County Assessor

**Re: *Information Obtained from DMV on Assessment Roll
Assignment No. 12-071***

Dear Mr. :

This is in response to your inquiry as to the permissibility of disclosing certain information obtained from the Department of Motor Vehicles (DMV) about vessels and vessel owners on the assessment roll. As explained below, in our opinion you are required to include and show certain information on the assessment roll, even if obtained from the DMV, and you must keep all other information confidential, subject to the confidentiality provisions set forth in the Revenue and Taxation Code.

Facts

You inform us that the DMV has been the primary source for providing your office with the name and address of registered owners of vessels for decades for purposes of administering the County's (the County's) vessel assessment program. Your office has previously used a DMV Government Requester Account to obtain hard copy records, and is now attempting to access the online version of the DMV Requester Account for greater efficiency. To that end, your office submitted a Form INF 1130, Government Requester Account Application, to the DMV, which the DMV has approved. The form provides for an applicant to disclose how the information will be used, and includes certain restrictions on the use of the data provided by the DMV. Your office uses DMV data to indicate the assessee's name and address, as the registered owner of personal property, on the assessment roll, which is open to public inspection.

Your County Counsel has issued an opinion dated February 15, 2012, that your use of information obtained from the DMV on the assessment roll is required by the Revenue and Taxation Code, and is not a violation of your agreement with the DMV as documented on Forms INF 1128 and 1130. The DMV, however, asserts that your use of information is a violation of those agreements.

You have asked us what you must show on the assessment roll and whether the inclusion of certain information that you obtain from the DMV violates your duties regarding confidentiality of taxpayer information and records.

Law and Analysis

Assessment Roll Requirements

The assessor is required to annually assess all taxable property in his or her county to the person who owns the property on the lien date at its "full value" on the lien date, to enter that value on the assessment roll, and to deliver the assessment roll to the county auditor by July 1. (Rev. & Tax. Code, §§ 110, 110.5, 401, 401.3, 405, subd. (a), 601-617 and 2192.) Revenue and Taxation Code¹ section 109 defines the assessment roll as consisting of several parts:

The 'secured roll' is that part of the roll containing State assessed property and property the taxes on which are a lien on real property sufficient, in the opinion of the assessor, to secure payment of the taxes. The remainder of the roll is the 'unsecured roll.' The 'local roll' is those parts of the secured and unsecured roll containing property which it is the county assessor's duty to assess.

Vessels² are classified as personal property, are taxable, and must be listed on the unsecured, regular assessment roll.³ (Assessor's Handbook Section 576, *Assessment of Vessels* (February 2002) (AH 576), p. 3.) Vessels are assessed by, and taxes are paid to, the county in which the vessel is registered. (*Id.* at p. 19.) California law requires the current registration of most vessels, including those moored, whether or not used. (*Id.* at p. 20.) Vessels registered with the DMV are considered to be documented vessels for property tax purposes.

The DMV records contain information about a vessel's address, which determines which county may assess the vessel. AH 576 states:

For vessels registered with the DMV, the DMV records situs information of a vessel's habitually moored address. Such location will determine the county that has taxing authority over the vessel. If the DMV records do not include a habitually moored address, the vessel will be taxable in the domicile county of the vessel's owner. Of course, if the taxable situs of a vessel can be determined elsewhere, the vessel should be taxed at that location.

(*Id.* at p. 35.)

The assessors obtain this address information and other information about taxable vessels in their county from the DMV. Under the Vehicle Code, the DMV is required to provide vessel information to the assessors. Vehicle Code section 9869 states, "The [DMV] shall transmit information from each initial application and each transfer application or renewal application to the county assessor in the county of residence of the owner of the vessel and to the county

¹ All "section" references are to the Revenue and Taxation Code, unless otherwise indicated.

² "Vessel" is defined as "every description of watercraft used or capable of being used as a means of transportation on water" not including aircraft. (Rev. & Tax. Code, § 130, subd. (a).)

³ One exception is that vessels of more than 50 tons burden in California and engaged in the transportation of freight or passengers are exempt under California Constitution, art. XIII, § 3, subd. (l).

assessor in the county in which the vessel is principally kept if other than the county of residence of the owner...." In addition, under Vehicle Code section 9869, the DMV must inform the assessors when a vessel owner has moved their residence, or has changed the county where the vessel is principally kept.

In fact, "the primary methods of discovering assessable vessels involve the review of Department of Motor Vehicle records," among other things. (AH 576, *supra*, at p. 7.) AH 576 details this procedure:

Based on a vessel's CF number [vessel registration number], the DMV can provide such information as the owner's name, address, vessel type, cost class, and other pertinent information. The DMV periodically sends reports to the county assessors' offices that list all vessels registered in the various counties. To facilitate the tracking of vessel owners and vessel locations, the DMV permits assessors' offices to establish an on-line communications link to access its database. This link saves considerable staff time in determining the assessability of pleasure boats.

(*Ibid.*)

Vessel owners themselves are also obligated to provide information about their vessels to the assessor. Under section 441, certain owners are required to file a Vessel Property Statement, on Board-prescribed Form BOE-576-D. (See AH 576 at p. 9.) Vessel owners may provide additional information on Forms BOE-576-A, BOE-576-B1, and BOE-576-C, which are not Board-prescribed. (*Id.* at p. 10.) Under section 445, the property statement must show a description of the property in the detail required, which may include the cost of the property.

AH 576 states:

An accurate assessment requires a description of the property assessed. Personal property must be described in the detail requested on the annual property statement or on a vessel owner's report. The property statement, mandated by section 441, is a vital link in the communication between the property owner and the assessor. The vessel property statement requests information regarding taxable property needed by the appraiser for making an annual review and accurate assessment of the property.

(See AH 576 at p. 5.)

The assessors then use the information they obtain from the DMV and from assessees to populate the roll and make annual assessments of taxable vessels.

Section 602 dictates what must be included on a handwritten roll, and Property Tax Rule 252 details what must be included on a machine-prepared roll.⁴ For the purposes relevant

⁴ Section 109.5 defines a "machine prepared roll" as "an assessment roll prepared by electronic data-processing equipment, bookkeeping machine, typewriter, or other mechanical device, and such a roll may be displayed in printed form, on microfilm, or by any other means that would make it readily available to the public in a legible form."

to this opinion, section 602 and Rule 252 are substantially similar and require that, at a minimum, the assessment roll show (among other items) the following information:

1. The name and mailing address of the assessee (Rev. & Tax. Code, § 602, subd. (a); Rule 252, subds. (a)(6), (a)(7));
2. A legal description that sufficiently identifies the location of personal property (Rev. & Tax. Code, § 602, subd. (d); Rule 252, subd. (a)(5)); and
3. The assessed value of personal property (Rev. & Tax. Code, § 602, subd. (i); Rule 252, subd. (a)(8)).

Because it is statutorily mandated, assessors must show these items of information for all assessable personal property on the assessment roll, including assessable vessels. Thus, assessors are required to show on the assessment roll the name and mailing address of a vessel owner, a legal description of the vessel which also sufficiently identifies the location of the vessel, and the assessed value of the vessel. Any assessor who fails to include this information on the assessment roll is in violation of his or her duties under the Revenue and Taxation Code.

Section 1602 provides that "[t]he roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours of the officer having custody thereof." Therefore, the assessment roll, which must include the owner's name, address, description of, and location of each assessable vessel, must be made available to the public through the public's right to inspection of the assessment roll during regular office hours.

Confidentiality Statutes Applicable to Assessors

The Revenue and Taxation Code has several provisions dealing specifically with the assessors' duties to keep confidential certain taxpayer information in the assessor's records, and to release certain other information upon request. Section 408, subdivision (a) is the general confidentiality provision applicable to assessors, and in effect provides that unless the law otherwise requires an assessor to keep or prepare certain information and records, that information and those records are not public information and the assessor may not subject them to public inspection. It provides, in relevant part:

Except as otherwise provided in subdivisions (b), (c), (d), (e), and (g), any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, disabled veterans' exemption claims, and homeowners' exemption claims, are not public documents and shall not be open to public inspection.

As we concluded above, any information an assessor obtains from the DMV that the assessor uses to populate the assessment roll, such as a vessel owner's name and address, description of and location of the vessel, must be shown on the roll, and is therefore subject to public inspection by virtue of the assessment roll being available for inspection under section 1602. All other information the assessor obtains from the DMV, and that is not specifically required to be shown on the assessment roll under section 602 or Rule 252, is subject to the provisions of section 408. Thus, for example, if an assessor were to obtain a vessel owner's driver's license number and had that information in his or her records, that information is not public information and the assessor may not make that information subject to public inspection

because it is information that is not required by law to be kept or prepared by the assessor. For that reason, the driver's license number may not be placed on the assessment roll.

In our opinion, any information or records that an assessor obtains from the DMV which he or she is *not* required to show on the assessment roll is *not* information and records that are required to be kept or prepared by the assessor. Therefore, such information and records are not open to public inspection.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Sincerely,

/s/ Sonya S. Yim

Sonya S. Yim
Tax Counsel III (Specialist)

SSY/mcb

J:/Prop/Precedent\Assessment Roll and Vehicle and Vessels/2012/12-071.doc

cc: Mr.
Chief Information Security Officer
County Administrative Services

Mr. David Gau	MIC:63
Mr. Dean Kinnee	MIC:64
Mr. Todd Gilman	MIC:70