



STATE BOARD OF EQUALIZATION

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No. 95/36

TO COUNTY ASSESSORS:

**APPLICATION OF SUBDIVISION (C) OF SECTION 1603  
OF THE REVENUE AND TAXATION CODE**

This letter provides guidance concerning application of subdivision (c) of Section 1603 of the Revenue and Taxation Code (all references to statutory provisions are to the Revenue and Taxation Code unless otherwise indicated). The issue is whether applications for reduced assessment based on fair market value on the lien date can be accepted after expiration of the normal filing period for appeals.

The normal filing period for appeals is between July 2 and September 15 following the lien date (Section 1603(b)). Section 1603 provides only two exceptions to the September 15 filing deadline:

- (1) Section 1603(b) provides if the taxpayer does not receive a notice required by Section 619 within 15 days prior to September 15, the taxpayer may file an appeal within 60 days of receipt of the notice or mailing of the tax bill, whichever is earlier. The application must be accompanied by an affidavit declaring under penalty of perjury that the notice was not received timely.
- (2) Section 1603(c) provides an application may be filed within 12 months following the month in which an assessee was notified of the assessment provided the assessee and the assessor stipulate to an error in the assessor's value judgment and a written stipulation is filed in accordance with Section 1607.

Subdivision (c) of Section 1603 reads:

"However, the application may be filed within 12 months following the month in which the assessee is notified of the assessment, if the party affected or his or her agent and the assessor stipulate that there is an error in the assessment as the result of the exercise of the assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and assessed value is filed in accordance with Section 1607."

Application of subdivision (c) has become a major issue as a result of declining values and delay in timely resolving the massive numbers of assessment appeals. A common situation resulting from declining values is where the assessor enrolls the factored base year value as the taxable value without first determining whether that factored base year value is lower than the market value. When the taxpayer receives the tax bill in October and complains to the assessor about the taxable value, the assessor may agree with the taxpayer but it is too late for the taxpayer to file an appeal within the normal filing period.

Another common situation involving assessment appeals is where a taxpayer filed a timely Proposition 8 appeal for 1993. The assessor made no adjustment for 1994 (and did not mail any notice pursuant to Section 619), but the taxpayer did not file an appeal for 1994, perhaps assuming that the 1993 and future assessments were contingent on the outcome of the 1993 appeal. In October 1994 (after the 1994 filing period expired), the appeals board approved a reduction for 1993. As a result of the outcome of the appeal, the assessor agrees that the 1994 assessment is excessive.

We are aware of four different ways that assessors' offices have responded to these situations.

1. Initiate a correction to the 1994 assessment based on Section 4831 or some other correction section.

*Incorrect.* Section 4831 specifically prohibits corrections for errors in value. Except for base year value corrections pursuant to Section 51.5, we do not believe any statute currently permits corrections for errors in value judgment.

2. Do not allow any adjustment to the 1994 value. The reasoning is that since a Section 619 value notice was not required, Section 1603(c) does not apply.

*Incorrect.* Section 1603(c) does not refer to Section 619, nor does application of Section 1603(c) hinge on whether notice is required. Section 1603(c) states that "... an application may be filed within 12 months following the month in which the assessee is notified ... " An assessee is notified upon receipt of a notice (whether or not such notice is required) or upon mailing of the tax bill.

3. Do not allow any adjustment to the 1994 value. The reasoning is that the assessor did not perform any appraisal review of the property (the 2 percent inflation adjustment was automatically added by computer); therefore the assessor did not make a value judgment and Section 1603(c) does not apply.

*Incorrect.* Although the assessor is not required to review every property every year (Section 51(f)), the assessor is required to enroll the value required by law (for most properties, this is the lower of adjusted base year value or fair market value). This means, among other things, the assessor is required to make a diligent effort to make fair market value appraisals of properties whose value is less than adjusted base year value. We believe that if an assessment is incorrect, there was either a clerical/mechanical error or a value error. Since several statutes authorize correction of clerical errors, we believe the provisions of Section 1603(c) are intended to be used to correct value errors that are not clerical errors.

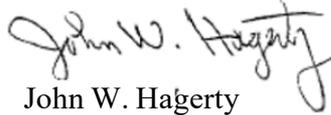
4. Stipulate to a reduction for 1994, thereby allowing the taxpayer to file a 1994 appeal pursuant to Section 1603(c).

Correct. The appeal must be based on the agreement of a judgmental error by the assessor and must be filed within 12 months of the notification of assessment, which in most cases means within 12 months of the mailing of the tax bill.

To summarize, we believe the provisions of Section 1603(c) are applicable in any case where (1) the assessor and taxpayer agree (stipulate) the assessed value is incorrect, (2) the error was not a mechanical/clerical error (such errors should be corrected under other statutes), (3) the assessor and taxpayer agree (stipulate) to the correct value, and (4) the taxpayer files an assessment appeal with the stipulation within 12 months of the notice of the assessment.

I hope this information is helpful. If you have any questions or comments on Section 1603, please contact our Technical Services Section at (916) 445-4982.

Sincerely,



John W. Hagerty  
Deputy Director  
Property Taxes Department

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