



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Director

January 9, 1998

TO COUNTY ASSESSORS,
COUNTY COUNSEL,
ASSESSMENT APPEALS BOARDS,
AND OTHER INTERESTED PARTIES:

No. 98/02

**NOTICE OF PROPOSED REGULATORY ACTION
BY THE
STATE BOARD OF EQUALIZATION**

**AMEND PROPERTY TAX RULE 52 - Restricted Value of Perennials Other Than Timber as Open Space
Lands**

PUBLIC HEARING: WEDNESDAY, FEBRUARY 25, 1998 AT 1:30 P.M.

NOTICE IS HEREBY GIVEN:

The State Board of Equalization, pursuant to the authority vested in the Board by Section 15606 (c) of the Government Code proposes to amend Regulation Section 52 in Title 18, Division 1 of the California Code of Regulations, relating to property taxes. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on February 25, 1998. Any person interested may present statements or arguments orally or in writing at that time and place. Written statements or arguments will be considered by the Board if received by February 25, 1998.

INFORMATIVE DIGEST

The State Board of Equalization proposes to amend Property Tax Rule 52 (18 Calif. Code of Regs. §52), **Restricted Value of Perennials Other Than Timber as Open Space Lands.**

The rule specifies acceptable methods of determining and capitalizing income for land and living improvements (perennials other than timber) pursuant to Revenue and Taxation Code Sections 423 and 429 (requiring that trees and vines shall also have a restricted value). The proposed modifications are intended to reflect statutory changes regarding the determination of net income and the value to be enrolled, which is not the same as the taxable or assessed value.

Chapter 1120, Statutes of 1978 amended Revenue and Taxation Code Section 423 (a) to state that the net income perennials could be expected to yield was tied to a typical rotation period as evidenced by historic cropping patterns and agricultural commodities grown, rather than to a specific year or years as indicated in subdivision (a) of Rule 52. Later, Chapter 144, Statutes of 1987 amended Section 423 (d), stating that the assessor must enroll the lesser of (1) the restricted value, (2) the factored base year value, or (3) the current market value. Thus, the restricted value and taxable/assessed value were not the same as stated in subdivision (d) of Rule 52. Proposed Rule 52 reflects these statutory amendments.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment of Rule 52 does not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments will result in no additional direct or indirect costs to any State agency, or to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and that there are no other non-discretionary costs or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code Section 11346.53(c), the Board of Equalization finds that the adoption of the amendments to Rule 52 will not have a significant adverse economic impact on business in the State of California.

The amendment of Rule 52 will neither create nor eliminate jobs in the State of California, will not result in the elimination of existing businesses, and will not create or expand business.

The amendments to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation will not affect small business.

ADVERSE ECONOMIC IMPACT ON PRIVATE PERSONS/BUSINESSES

There will be no adverse economic impact on private businesses or persons.

FEDERAL REGULATIONS

There are no Federal regulations comparable to Rule 52.

PLAIN ENGLISH STATEMENT

Preparation of the proposed amendments included consideration of the “plain English” requirement. Any technical terms that may be unfamiliar to the intended users and that are not industry-recognized are defined or explained in this and companion rules.

AUTHORITY

Government Code Section 15606, subdivision (c).

REFERENCE

Revenue and Taxation Code Sections 423 and 429.

CONTACT

Questions regarding the content of the proposed regulation should be directed to: Ms. Kristine Cazadd, Senior Tax Counsel at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082. Telephone: (916) 323-7713 FAX (916) 323-3387.

Written comments for the Board’s consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, and P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND OF TEXT OF PROPOSED REGULATIONS

The Board has prepared a statement of reasons and underscored version (express terms) of the proposed regulation. Both of the documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, at P. O. Box 942879, 450 N Street, MIC: 80, Sacramento, CA 94279-0080.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified rule will be available to the public from Ms. Stumpf. The State Board of Equalization will consider written comments on the modified rule for fifteen days after the date on which the modified regulation is made available to the public.

Dated: December 19, 1997

STATE BOARD OF EQUALIZATION

A handwritten signature in cursive script, appearing to read "E. L. Sorensen, Jr.", written in black ink.

E. L. Sorensen, Jr.
Executive Director

Rule 52. ~~Valuation~~ Restricted Value of Perennials Other Than Timber As Open-Space Lands.

(a) Minimum Value. The restricted value of Land planted to fruit-bearing trees, nut-bearing trees, vines, bushes, or other perennials except timber, and the perennials thereon, ~~when eligible for assessment under~~ pursuant to sections 423 and 429 of the Revenue and Taxation Code, shall be ~~valued~~ determined by capitalizing the larger of (1) the net income that the land and such perennials can be expected to yield under prudent management and subject to the applicable restrictions or (2) the net income that the land can be expected to yield over a typical rotation period, ~~not to exceed six years including the year for which the assessment is made~~ as evidenced by historic cropping patterns and agricultural commodities grown, if planted to typical annuals grown in the area. "Typical annuals grown in the area" means annual crops that are actually grown in substantial quantities on land that is comparable to the subject property within the meaning of section 402.5 of the Revenue and Taxation Code.

(b) Capitalization of Rental Income. In estimating such net income, property tax appraisers shall consider the rental income from recently consummated leases, negotiated at arms' length, for comparable plantings and the net income from owner-operated comparable plantings, giving more weight, other things equal, to the former than to the latter. Leases, however, must be for the full life of the perennials, or multiples thereof, if the rental income is to be used without adjustment for variations in expected yields as young perennials mature and older perennials decline. Allowance must also be made, when using rental income, for amortization of the landlord's investment in perennials and other depreciable property used in the enterprise.

(c) Capitalization of Owner-Operator's Income. When estimating the value of a planting of perennials by capitalizing the income it is expected to yield a prudent owner-operator, property tax appraisers shall first estimate the annual net income from the total operating unit over and above the income required to provide a fair return on capital invested in operating assets other than the land and perennials and to amortize such investments if they are depreciable. Such net income shall then be segregated into (1) the net income that can be fairly attributed to the land, which shall not be less than the net income the land could be expected to yield if planted to typical annual crops grown in the area, and (2) the balance, which shall be considered the income from the perennials. The income attributed to the land shall be capitalized in perpetuity by dividing it by the capitalization rate prescribed in section 423(b) of the Revenue and Taxation Code. ~~The income from perennials shall be capitalized by dividing it by a rate which is the sum of the capitalization rate prescribed in section 423(b) of the Revenue and Taxation Code and an amortization rate.~~ The income from perennials shall be capitalized by a method that provides for return of capital utilizing the capitalization rate prescribed in section 423(b). The present worths of the income streams thus imputed to the land and the perennials shall be added to derive the ~~full~~ restricted value of the land and perennials.

(d) Estimation of Income. The income attributable to the land shall be estimated by one of the following procedures:

(1) Estimate the amount of the net income the land would yield if planted to typical annual crops grown in the area. This procedure is particularly appropriate where comparable lands are commonly planted to annual crops.

(2) Estimate the amount of net income required under current market conditions to justify an investment equal to the replacement cost of the perennials with a life equal to the estimated total economic life of the perennials and subtract this amount of net income from the estimate of the total net income from the land and perennials. This procedure is particularly appropriate where bare land sales are uncommon and comparable land is seldom planted to annuals.

(3) Estimate the market value of the land by the comparative sales approach and multiply this estimate by a market-derived rate of return. Sales used for comparative purposes shall not include those materially influenced by the possibility of non-agricultural uses. The market value thus derived for the land shall be used only for the purpose of allocating income between the land and perennials.

~~(d) Enrollment of Taxable Values. The land value thus derived by the assessor shall be converted to an assessed value by multiplying it by 25 percent, and this assessed value shall be listed in the land column of the roll, together with the value of taxable perennials other than date palms over eight years old, other fruit and nut bearing trees, grapevines and other vines. The value thus derived by the assessor for taxable date palms over eight years old, other fruit and nut bearing trees four years of age or older, grapevines three years of age and older, and other vines shall be converted to an assessed value by multiplying it by 25 percent, and this assessed value shall be listed in the improvements column of the roll.~~

~~(e) Effective Date. This rule shall be effective from and after March 1, 1971.~~

Authority: Section 15606, Government Code

Reference Sections 423 and 429, Revenue and Taxation Code.