



STATE BOARD OF EQUALIZATION

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E. L. SORENSEN, JR.
Executive Director

No. 98/04

January 9, 1998

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

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

**AMEND PROPERTY TAX RULE 202 - Allocation of Aircraft of Certificated Air Carriers and
Scheduled Air Taxi Operators**

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 202 - Allocation of Aircraft of Certificated Air Carriers and Scheduled Air Taxi Operators 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/PLAIN ENGLISH OVERVIEW

The State Board of Equalization proposes to amend Property Tax Rule 202 (18 Calif. Code of Regs. §202), Allocation of Aircraft of Certificated Air Carriers and Scheduled Air Taxi Operators.

The rule provides for the allocation of aircraft of certificated air carriers and scheduled air taxi operators for property tax assessment purposes. Annually, after consulting with assessors of the counties in which air carriers' aircraft normally arrive and depart, the Board on or before the March 1 lien date designates a representative period to be used by all assessors in assessing the aircraft of each carrier for the forthcoming fiscal year. Chapter 499, Statutes of 1995, amended Revenue and Taxation Code Section 2192 to change the lien date from March 1 to January 1. Thus, the Board needs to consult with assessors earlier and needs to designate the representative period earlier so that assessors can begin the annual assessment process in a timely manner. January 15, rather than January 1, has been specified as the date by which the Board must designate the representative period because the Board typically meets early in January, but not on January 1, which is a State holiday; and December 20 has been specified as the date by which the Board must consult with assessors, of necessity, a date prior to the January 15 date.

The express terms of the proposed action, written in plain English, are available from the agency contact person named in this notice.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments do 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 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 amendment of Rule 202 will not have a significant adverse economic impact on business.

The amendment of this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment of 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

Rule 202 has no comparable Federal regulation.

AUTHORITY

Government Code Section 15606, subdivision (c).

REFERENCE

Revenue and Taxation Code Sections, 1150 - 1156.

CONTACT

Questions regarding the content of the proposed regulations should be directed to: Mr. J. K. McManigal, Senior Tax Counsel, at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082. Telephone: (916) 323-7715 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 amendments. Those 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.

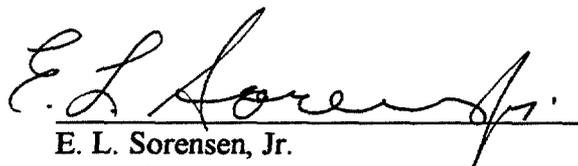
ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with the 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.", is written over a horizontal line.

E. L. Sorensen, Jr.
Executive Director

Section 202.

Allocation Of Aircraft Of Certificated Air Carriers And Scheduled Air Taxi Operators.

(a) An aircraft whose owner on the lien date used it in scheduled air taxi service at any time during the representative period selected pursuant to subsection (f), or which has been purchased for scheduled air taxi service but not yet put into such service and not yet used in any other service, is assessable under sections 1150 to 1156 of the Revenue and Taxation Code and not under Part 10, Division 1, or under other situs provisions of Part 2, Division 1, of the Revenue and Taxation Code.

(b) Aircraft of United States registry operated by certificated air carriers (within the meaning of section 1150 of the Revenue and Taxation Code) or scheduled air taxis (within the meaning of subdivisions (a) and (b) of section 1154 of the Revenue and Taxation Code) and flown in intrastate, interstate, or foreign commerce shall be deemed to be situated only in those taxing agencies (within the meaning of section 404 of the Revenue and Taxation Code) in which the aircraft normally make physical contact. The physical contact must be intentional rather than by accident or as the result of an emergency, and it must involve embarking or disembarking of crew, passengers, or freight.

(1) Aircraft flying over the state without landing do not acquire situs for property tax purposes. Conversely, the situs of aircraft that depart from a taxing agency within the state, fly out of the state, and return to the same or another taxing agency within the state without landing outside the state is within the state's taxing jurisdiction throughout the flight.

(2) Situs for property tax purposes is not affected by the legal or commercial domicile of the operator of the aircraft, except that foreign-owned and -based aircraft operated solely in foreign commerce do not acquire a situs within the state for property tax purposes.

(c) The allocation formula to be used by each assessor is composed of two factors: (1) ground and flight time and (2) aircraft arrivals and departures.

(1) The ground and flight time factor is the ratio of time allocable to an airport during a representative period to the total time during the representative period.

(A) Time allocable to an airport is the amount of time a certificated aircraft (or scheduled air taxi) is on the ground at the airport, plus the portion of incoming and outgoing flight time computed pursuant to subsection (d). In computing the time allocable to the airport, the following shall be excluded: (1) all ground and flight time prior to the aircraft's first entry into revenue service of the air carrier in control of the aircraft on the current lien date; and (2) all ground time in excess of 168 hours during each period the aircraft spent 720 or more consecutive hours on the ground.

(B) Total time is the sum of the time allocable to the airport and the time allocable elsewhere during the representative period. In computing the total time, the following shall be excluded: (1) all ground and flight time prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date. The ground and flight time factor shall be multiplied by 75 percent to obtain a weighted ground and flight time factor.

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(2) The aircraft arrivals and departures factor is the ratio of the number of arrivals at and departures from an airport during a representative period to the total number of arrivals at and departures from all airports during the representative period. This factor shall be multiplied by 25 percent to obtain a weighted arrivals and departures factor.

(3) The weighted ground and flight time factor shall be added to the weighted arrivals and departures factor. The sum of the two weighted factors yields the allocation ratio to be applied to the full cash value of the aircraft to determine the full cash value allocable to the airport.

(d) For aircraft flying from one California airport to another California airport, the flight time attributable to each airport is one-half the flight time between the airports. For aircraft arriving from an airport outside the state or leaving for an airport outside the state, the flight time from or to the state boundary shall be allocated to the California airport in which the aircraft first lands or last takes off, as the case may be. The flight time to the state boundary shall be computed as follows: (1) determine the mileage from the airport to the state boundary crossing point on a great circle flight to the first landing point outside the state; (2) divide this mileage by the total great circle mileage from the airport to the first landing point outside the state; (3) multiply this percentage by the total flight time from the airport to the first landing point outside the state. The same procedure shall be used for inbound flights from outside the state. To allow for differences in take-off, landing, and cruising speeds and for varying take-off and landing patterns, the time allocated to an airport shall not be less than five minutes for an incoming or an outgoing flight. In lieu of the actual flight time for a single flight, the average flight time between two ports, or between a port and the state line, for two or more flights of a single carrier or of more than one carrier shall be used when such an average is promulgated by the board unless the assessor has documented evidence which justifies departure from such average time.

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(e) For scheduled operations, arrivals and departures and ground and flight time shall be derived from the carrier's operating schedules. For nonscheduled operations, including, but not limited to, overhaul, pilot training, charter, military contract flights, and standby services, ground and flight time and arrivals and departures shall be derived from the carrier's recorded operations.

(f) Annually, on or before ~~February 15~~ December 20, the board shall consult with the assessors of the counties in which air carriers' aircraft normally make physical contact. On or before ~~March~~ January 15, the board shall designate a representative period to be used by all assessors in assessing the aircraft of each carrier for the forthcoming fiscal year.

(g) The aircraft of certificated air carriers and scheduled air taxi operators shall be segregated by type, and a separate allocation ratio shall be computed for each type which has established a tax situs within the state, excluding those makes within a type which have not established a tax situs within the state. Each allocation ratio shall then be applied to the total value of the carrier's aircraft of each type to which the allocation ratio applies, excluding those makes within a type which have not established a tax situs within the state. Annually, the types shall be designated by the board in the same manner and at the same time the representative period is designated. Examples of the types are as follows:

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- __ (1) Piston-powered
- __ (2) Turboprop-powered
- __ (3) Helicopter
- __ (4) Turbojet and Turbofan powered
- __ (A) Two engine
- __ (B) Three engine
- __ (C) Four engine
- __ (D) DC-8-60 series
- __ (E) Two engine widebody
- __ (F) Three engine widebody
- __ (G) Four engine widebody

Authority: Section 15606, Government Code.

Reference: Sections 1150, 1151, 1152, 1153, 1154, 1155, 1156, Revenue and Taxation Code.