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PROPERTY AND SPECIAL TAXES DEPARTMENT
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No. 2010/011

February 8, 2010

TO CLERKS OF THE BOARD AND COUNTY ASSESSORS:

PROPERTY TAX ASSESSMENT APPEALS
CONFLICT OF INTEREST CHANGES

Effective January 1, 2010, Assembly Bill 824 (Stats. 2009, Ch. 477) amends sections 1612.5, 1612.7, and 1622.6 of the Revenue and Taxation Code¹ relating to conflict of interest safeguards for property tax assessment appeals filed or handled by persons having an employment-related association with the assessment appeals board. Specifically, this bill:

- Consolidates into one section provisions prohibiting certain employees from representing a taxpayer for compensation on filing an assessment appeal and extends these provisions to county counsel employees that work with the assessment appeals board and employees of the county assessor's office. §1612.5
- Consolidates into one section provisions requiring certain employees to immediately notify the clerk of the assessment appeals board if they file an assessment appeal on property they own, or when they decide to represent a spouse, parent, or child with respect to their assessment appeal and extends these provisions to county counsel employees that work with the assessment appeals board. §1612.7
- Allows the use of an established assessment appeals board from another county to hear and decide conflict of interest property tax appeals. §1622.6

Local assessment appeals boards are independent entities, separate from the assessor's office, established to decide disputes between county assessors and property owners. Existing law provides various conflict of interest provisions and safeguards to ensure the integrity and impartiality of decisions rendered by a county assessment appeals board. In addition, the law prohibits certain persons with an employment association with the assessment appeals board from representing any taxpayer filing an appeal for compensation. Persons who are subject to these provisions include:

- Employees of the office of the clerk of the county board of equalization or county assessment appeals board.
- Assessment appeals board members and alternate members.
- Assessment hearing officers.

¹ All statutory references are to the Revenue and Taxation Code unless otherwise specified.

Furthermore, if any of these persons file an appeal application on his or her own behalf or decide to represent a spouse, parent, or child in an assessment appeal, then the law requires that he or she immediately notify the clerk of the assessment appeals board. Such appeals may not be heard by the regular assessment appeals board for the county. Instead, section 1622.6 requires these appeals to be heard by a special assessment appeal board panel consisting of three special alternate members appointed by the presiding judge of the superior court in the county where the application is filed.

AB 824 makes the following nonsubstantive amendments to restructure existing law to make these provisions more cohesive and user-friendly:

Compensation Prohibitions. The amendments consolidate into section 1612.5 those provisions currently in sections 1365, 1624.3, and 1636.2 that prohibit certain persons from representing taxpayers, for compensation, in an appeal hearing in the county in which they serve.

Notification of Appeal Requirements. The amendments consolidate into section 1612.7(a) those provisions currently in sections 1622.6 and 1636.5 that require the clerk of the assessment appeals board to be notified when persons with a conflict of interest file an appeal or decide to represent a family member.

In addition, AB 824 makes the following amendments:

County Counsel Employees. AB 824 extends existing conflict of interest provisions in sections 1612.5 and 1612.7 to county counsel employees who either advise the assessment appeals board or represent the assessor before the assessment appeals board. Specifically, these employees are prohibited from representing any taxpayer, for compensation, in an assessment appeal hearing and must notify the clerk of the appeals board when they file an appeal on property they own in the county or if they decide to represent a spouse, parent, or child in an assessment appeal hearing.

Substitute Appeals Board. AB 824 amends section 1622.6 to give the clerk of the assessment appeals board the option to schedule a conflict of interest appeal hearing with a special alternate board consisting of three special alternate assessment appeals board members who are qualified and in good standing in *another* county in California. If this option is exercised, then the superior court would not need to appoint three persons to a special panel for the appeal.

A copy of the amended sections, in strikeout and underline format, is enclosed. If you have any questions, please contact our Assessment Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

Section 1612.5 is repealed and added to the Revenue and Taxation Code, to read:

1612.5. No current employee of the office of the clerk of the county board of equalization or assessment appeals board may represent an applicant for compensation on any application for equalization filed pursuant to Section 1603. The following persons may not represent an applicant for compensation on any application for equalization filed pursuant to Section 1603:

(a) A current member of an assessment appeals board, or any alternate member, in the county in which the board member or alternate member serves.

(b) A current assessment hearing officer in the county in which the hearing officer serves.

(c) A current employee of the office of the clerk of the county board of equalization or assessment appeals board in the county in which the person is employed.

(d) A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board in the county in which the person is employed.

(e) A current employee of the assessor's office in the county in which the person is employed in accordance with Section 1365.

Section 1612.7 of the Revenue and Taxation Code is repealed and added:

1612.7. An employee of the clerk of the assessment appeals board shall notify the clerk immediately upon filing an application on his or her own behalf, or upon his or her decision to represent his or her spouse, parent, or child in an assessment appeal. The application shall be heard in accordance with the provisions of Section 1622.6.

(a) The following persons shall notify the clerk of the board immediately upon filing an application for equalization pursuant to Section 1603 on his or her own behalf, or upon his or her decision to represent his or her spouse, parent, or child in an assessment appeal:

(1) A current member of an assessment appeals board, or any alternate member, in the county in which the board member or alternate member serves.

(2) A current assessment hearing officer in the county in which the hearing officer serves.

(3) A current employee of the office of the clerk of the county board of equalization or assessment appeals board in the county in which the person is employed.

(4) A current employee of the county counsel who advises the assessment appeals board or represents the assessor before the assessment appeals board in the county in which the person is employed.

(b) An application for equalization filed pursuant to Section 1603 by a person specified in subdivision (a) or an application in which a person specified in subdivision (a) represents his or her spouse, parent, or child, shall be heard in accordance with Section 1622.6.

Section 1622.6 of the Revenue and Taxation Code is amended to read:

1622.6. (a) (1) An application for equalization filed pursuant to Section 1603 by a member or alternate member of an assessment appeals board, or an application in which that member represents Section 1603 by a person described in Section 1612.7, or an application in which a person described in Section 1612.7 represents his or her spouse, parent, or child, shall be heard before an assessment appeals board panel consisting of three special alternate assessment appeals board members appointed by order of the presiding judge of the superior court in the county in which the application is filed.

(2) A special alternate assessment appeals board member may hear only the application for equalization set forth in the superior court order appointing the member.

(3) A person shall be eligible for appointment as a special alternate assessment appeals board member if he or she meets the criteria and files the documentation described in subdivisions (a) and (b) of Section 1624, subject to the prohibitions described in Sections 1624.1 and 1624.2.

(b) (1) Notwithstanding subdivision (a), at the discretion of the clerk of the board, the applications may be heard before a special alternate board formed pursuant to this subdivision consisting of three special alternate assessment appeals board members who are qualified and in good standing in another county in California.

(2) The special alternate board may hear only the application for equalization set forth in the transmittal document prepared by the clerk of the board of the county in which the application is filed.

(3) Each appeals board member on the special alternate board shall be in good standing in his or her county. A board member is in good standing if he or she is actively serving as an assessment appeals board member in his or her county.

~~A member or alternate member of an assessment appeals board shall notify the clerk immediately upon filing an application on his or her own behalf, or upon his or her decision to represent his or her spouse, parent, or child in an assessment appeal matter. A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing the member.~~

~~Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in Section 1624.~~

~~Sections 1624.1 and 1624.2 shall be applicable to the appointment of a special assessment appeals board member.~~