



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-791 Property taxation: valuation: certificated aircraft. (2019-2020)

SHARE THIS:  

Date Published: 09/23/2019 09:00 PM

Senate Bill No. 791

CHAPTER 333

An act to amend Section 441 of, to amend and add Section 1152 of, to add Sections 1153.5 and 1157 to, and to repeal Section 1153 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2019. Filed with Secretary of State September 20, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 791, Committee on Governance and Finance. Property taxation: valuation: certificated aircraft.

Existing property tax law requires the personal property of an air carrier to be taxed at its fair market value, and the California Constitution requires property subject to ad valorem property taxation to be assessed in the county in which it is situated. Existing property tax law, for the 2005–06 fiscal year to the 2016–17 fiscal year, inclusive, specified a formula to determine the preallocated fair market value of certificated aircraft of a commercial air carrier. Existing property tax law provides an allocation formula to be used by each assessor that is generally based on the proportionate amount of time that certificated aircraft spend within the state and within each county during a representative period designated by the State Board of Equalization, as provided.

This bill would specify that this allocation formula applies only to fiscal years before the 2020–21 fiscal year and repeals the requirement that the State Board of Equalization designate a representative period. The bill, for the 2020–21 fiscal year and for each fiscal year thereafter, would establish a new formula for allocating the taxable value of certificated aircraft based on the time spent in the state in the previous calendar year, with appropriate adjustments for time spent in maintenance in this state. The bill would require the board, after consultation with the California Assessors' Association and representatives of commercial air carriers, to promulgate emergency regulations and produce forms and instructions necessary to implement the allocation formula established by the bill.

Previously existing law, until December 31, 2016, required the Aircraft Advisory Subcommittee of the California Assessors' Association to designate, after soliciting input from commercial air carriers operating in the state, a lead county assessor's office for each commercial air carrier operating certificated aircraft in this state in an assessment year, and required the lead county assessor to calculate, based on the above-described statutory formula, the value of the air carrier's personal property and to transmit these calculations to other county assessors, but specified that each county assessor was responsible for assessing and enrolling the taxable value of the property in the assessor's county, as provided. Previously existing law, until December 31, 2016, also required the lead county assessor's office to lead a team to audit the books and records of commercial air carriers, and also required a commercial air carrier that received a notice of the designation of a lead county assessor's office to file one signed property statement with the lead county assessor's office for its personal property at all airport locations and fixtures at all airport locations.

This bill would require the Aircraft Advisory Subcommittee of the California Assessor's Association, after soliciting input from commercial air carriers operating in the state, on or before March 1, 2020, and on or before each March 1 thereafter, to designate a lead county assessor's office for each commercial air carrier operating certificated aircraft. The bill would also require the Aircraft Advisory Subcommittee of the California Assessor's Association, every 3rd year thereafter, to redesignate a lead county assessor's office for these air carriers. The bill, similar to the above-described provisions, would require the lead county assessor's office to, among other things, calculate the unallocated value of the certificated aircraft of each commercial air carrier to which that assessor is designated and transmit these calculations to other county assessors, as provided, and lead a team to audit the commercial air carriers. The bill would reenact the above-described provisions requiring a commercial air carrier to file one property statement with the lead county assessor's office.

By adding to the duties of an assessor designated as a lead county assessor for purposes of certificated aircraft valuation for property taxation, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 441 of the Revenue and Taxation Code is amended to read:

441. (a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800), having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.

(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision shall be applicable to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) (1) At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding their property or any other personal property located on premises they own or control. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

(2) (A) Upon written request of an assessor, the assessee or the assessee's designated representative shall transmit the information or records described in paragraph (1) by mail, or in electronic format if the information or records are available in electronic format or have been previously digitized. This paragraph shall not be construed or interpreted to limit the assessor's authority to also examine information or records described in paragraph (1).

(B) Information or records requested pursuant to this paragraph shall be transmitted within a reasonable time period.

(3) (A) This subdivision shall also apply to an owner-builder or an owner-developer of new construction that is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

(B) The owner-builder or owner-developer of new construction described in subparagraph (A), shall, within 45 days of receipt of a written request by the assessor for information or records, provide the assessor with all information and records regarding that property. The information and records provided to the assessor shall include the total consideration provided

either by the purchaser or on behalf of the purchaser that was paid or provided either, as part of or outside of the purchase agreement, including, but not limited to, consideration paid or provided for the purchase or acquisition of upgrades, additions, or for any other additional or supplemental work performed or arranged for by the owner-builder or owner-developer on behalf of the purchaser.

(e) In the case of a corporate owner of property, the property statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign the statements on behalf of the corporation.

(f) In the case of property owned by a bank or other financial institution and leased to an entity other than a bank or other financial institution, the property statement shall be submitted by the owner bank or other financial institution.

(g) The assessor may refuse to accept any property statement the assessor determines to be in error.

(h) If a taxpayer fails to provide information to the assessor pursuant to subdivision (d) and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 does not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

(j) This subdivision shall apply to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury required by subdivision (b), property statements filed using electronic media shall be authenticated pursuant to methods specified by the assessor and approved by the board. Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, and facsimile machine.

(l) (1) After receiving the notice required by Section 1162, the manager in control of a fleet of fractionally owned aircraft shall file with the lead county assessor's office one signed property statement for all of its aircraft that have acquired situs in the state, as described in Section 1161.

(2) Flight data required to compute fractionally owned aircraft allocation under Section 1161 shall be segregated by airport.

(m) (1) After receiving the notice required by paragraph (5) of subdivision (b) of Section 1153.5, a commercial air carrier whose certificated aircraft is subject to Article 6 (commencing with Section 1150) of Chapter 5 shall file with the lead county assessor's office designated under Section 1153.5 one signed property statement for its personal property at all airport locations and fixtures at all airport locations.

(2) Each commercial air carrier may file one schedule for all of its certificated aircraft that have acquired situs in this state under Section 1151.

(3) Flight data required to compute certificated aircraft allocation under Section 1152 and subdivision (g) of Section 202 of Title 18 of the California Code of Regulations shall be segregated by airport location. Each commercial air carrier shall report this flight data for the entire state, segregated by county and airport, to the lead county assessor's office designated under Section 1153.5.

SEC. 2. Section 1152 of the Revenue and Taxation Code is amended to read:

1152. For fiscal years before the 2020–21 fiscal year, the allocation formula to be used by each assessor is as follows:

(a) The time in state factor is the proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during a representative period as compared to the total time in the representative period. For purposes of this subdivision, all time, both in the air and on the ground, that certificated aircraft have spent within the state 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 shall be excluded from the time in state factor. This factor shall be multiplied by 75 percent.

(b) The arrivals and departures factor is the proportionate number of arrivals in and departures from airports within the state of certificated aircraft during a representative period as compared to the total number of arrivals in and departures from airports during the representative period. This factor shall be multiplied by 25 percent.

(c) For the 1983–84 fiscal year until the 2020–21 fiscal year, inclusive, in computing the time-in-state factor, on each occasion during the representative period that a certificated aircraft has spent 720 or more consecutive hours on the ground, all ground time in excess of 168 hours shall be excluded from the time in state attributable to that aircraft.

(d) The time-in-state factor shall be added to the arrivals and departures factor.

(e) The figure produced by application of subdivision (d) equals the allocation to be applied to full cash value to determine the value to which the assessment ratio shall be applied.

(f) This section shall become inoperative on January 1, 2020.

SEC. 3. Section 1152 is added to the Revenue and Taxation Code, to read:

1152. For the 2020–21 fiscal year and for each fiscal year thereafter, the allocation formula to be used by each assessor is as follows:

(a) The proportionate amount of time, both in the air and on the ground, that certificated aircraft have spent within the state during the 12-month period from January 1 through December 31 of the previous year immediately preceding the lien date as compared to the total time in the 12-month period from January 1 through December 31 of the previous year immediately preceding the lien date.

(b) Time in the air consists of flight time and taxi time within California's borders. Time in the air shall be based on the State Board of Equalization's "California Standard Flight Times" table in the most recently published Letter to Assessors that addresses intrastate and interstate standard flight times. These standard times shall be multiplied by the number of departures to and from the airports listed in the Letter to Assessors.

(c) Ground time is all time in the state that is not flight or taxi time. Ground time at each airport shall be reported on a summary basis by fleet type pursuant to subdivision (m) of Section 441. All ground time allocated to heavy maintenance that requires a certificated aircraft or scheduled air taxi to be removed from revenue service shall be excluded. An air carrier claiming an exclusion for heavy maintenance time shall identify such maintenance and supply sufficient documentation that will enable the assessor to confirm the amount of time the aircraft was not in revenue service. Routine line maintenance that does not require removal from revenue service shall not be excluded from time allocable to the airport.

(d) Time allocable to each airport is the amount of time a certificated aircraft or scheduled air taxi is on the ground at the airport computed pursuant to subdivision (c), plus the portion of incoming and outgoing flight time computed pursuant to subdivision (b).

(e) All time, both in the air and on the ground, that certificated aircraft have spent within the state 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 shall be excluded from the time-in-state factor.

(f) This section shall become operative on January 1, 2020.

SEC. 4. Section 1153 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 1153.5 is added to the Revenue and Taxation Code, to read:

1153.5. (a) The Aircraft Advisory Subcommittee of the California Assessors' Association shall, after soliciting input from commercial air carriers operating in the state, do both of the following:

(1) On or before March 1, 2020, and on or before each March 1 thereafter, designate a lead county assessor's office for each commercial air carrier operating certificated aircraft in this state in that assessment year.

(2) Every third year thereafter, redesignate a lead county assessor's office for each of these air carriers, unless an air carrier and its existing lead county assessor's office concur to waive this redesignation.

(b) The lead county assessor's office described in subdivision (a) shall do all of the following:

(1) Calculate an unallocated value of the certificated aircraft of each commercial air carrier to which that assessor is designated.

(2) Electronically transmit to the assessor of each county in which the property described in paragraph (1) has situs for the assessment year the values determined by the lead county assessor's office under paragraph (1).

(3) Receive the property statement, as described in subdivision (m) of Section 441, of each commercial air carrier to which the assessor is designated.

(4) Receive and electronically transmit to the assessor of each affected county flight data received pursuant to paragraph (3) of subdivision (m) of Section 441.

(5) Lead the audit team described in subdivision (d) when that team is conducting an audit of a commercial air carrier to which the assessor is designated.

(6) Notify, in writing, each commercial air carrier for which the assessor has been designated of this designation on or before the first March 15 that follows that designation.

(c) (1) Notwithstanding subdivision (b), the county assessor of each county in which the personal property of a commercial air carrier has situs for an assessment year is solely responsible for assessing that property, applying the allocation formula set forth in Section 1152, and enrolling the value of the property in that county, but, in determining the allocated fleet value for each make, model, and series of certificated aircraft of a commercial air carrier, the assessor may consult with the lead county assessor's office designated for that commercial air carrier.

(2) The lead county assessor's office is subject to Section 322 of Title 18 of the California Code of Regulations and Sections 408, 451, and 1606 to the same extent as the assessor described in paragraph (1).

(d) (1) Notwithstanding Section 469, an audit of a commercial air carrier shall be conducted once every four years on a centralized basis by an audit team of auditor-appraisers from at least one, but not more than three, counties, as determined by the Aircraft Advisory Subcommittee of the California Assessors' Association. An audit, so conducted, shall encompass all of the California Personal Property and fixtures of the air carrier and is deemed to be made on behalf of each county for which an audit would otherwise be required under Section 469.

(2) The audit team described in paragraph (1) shall do both of the following:

(A) Be the point of contact for all aircraft-related questions to or from each county and the commercial air carrier.

(B) Ensure that all aircraft-related concerns regarding the taxable value of the aircraft and aircraft parts are resolved with each county before finalizing the aircraft assessment with the commercial air carrier.

SEC. 6. Section 1157 is added to the Revenue and Taxation Code, to read:

1157. (a) After consultation with the California Assessors' Association and representatives of commercial air carriers, the board shall, by emergency regulation, promulgate regulations and produce forms and instructions necessary to implement the allocation formula established for the 2020–21 fiscal year, and for each fiscal year thereafter, pursuant to Section 1152.

(b) An emergency regulation adopted pursuant to subdivision (a) shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Sections 11346.1 and 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the changes proposed by this act, which improve the certainty, accuracy, and efficiency of certificated aircraft assessment, are effective for the 2020–21 fiscal year, it is necessary that this act take effect immediately.