



March 31, 2023

The Honorable Philip Ting
 California State Assembly
 1021 O Street, Room 8230
 Sacramento, CA 95814

Subject: CalTax OPPOSITION to ACA 11 (Ting), as introduced on March 8, 2023

Dear Assembly Member Ting:

The California Taxpayers Association and the organizations listed below **OPPOSE** ACA 11, which would eliminate important checks and balances between taxpayers and tax administrators by abolishing the elected State Board of Equalization (BOE).

With due respect to the nuanced effort of improving tax administration, ACA 11 does not achieve these goals. ACA 11 instead would force California's property tax system into the shadows, eliminate transparency, reduce accountability and jeopardize the integrity and safeguards that have taken more than a century to create in the current system.

About the Board of Equalization

The groundwork for the formation of the BOE began at the state's founding – the 1849 state constitution required "taxation to be equal and uniform." The failure of assessors and tax collectors to uphold the "equal and uniform" standard led to the creation of the BOE in 1879. Today, the BOE's constitutional mission is more important than ever, as the agency oversees and ensures

that California's \$8 trillion property tax system is based on equal and uniform assessment practices for state-assessed, locally assessed, and tangible personal property.

During its long history, the BOE has been at the forefront of protecting the integrity of California's property tax system. In California's early years, industries pitted counties against the state to seek reduced valuations, but the BOE prevailed and ensured that valuation practices were uniform statewide, from one county to the next. The BOE's oversight of assessment practices is critical to ensure that county assessors are valuing property correctly.

Residential property and most commercial and industrial buildings are assessed at the local level by the 58 elected county assessors. The BOE provides critical oversight of county assessors' practices to ensure the uniformity of assessments, compliance with existing laws, and accuracy. The BOE also ensures that not-for-profit, school, and religious property is excluded from the property tax, as required by state law. When reviewing local practices, the BOE provides administrative recommendations to assessors, and the elected BOE members work with assessors to continually improve and modernize tax administration. The elected BOE members advise and assist in the creation of the multivolume Assessors' Handbook to provide assessors, assessment staff, and interested parties an overview of property tax principles, appraisal guidelines, and scenarios that arise when conducting assessments. BOE members also issue independent assessments of each county assessor on a rotating basis to correct any practices that may be non-compliant. Los Angeles County Assessor Jeffrey Prang, whose office oversees more than 2.5 million properties with a total assessed value of \$1.89 trillion, issued a press release commenting on the BOE's 2022 assessment survey of his county:

"This survey, or audit if you will, of our administrative practices and assessments is an invaluable tool that helps us identify and address operational needs, while simultaneously validating the hard work and dedication of the employees of the Office," Prang said. "I also want to thank my staff for their continued professionalism and dedication that has made this outstanding evaluation possible."

Although the Los Angeles County Assessor's Office has the primary responsibility for local property assessment, the BOE ensures that assessor offices throughout California maintain standardized and fair and equitable assessments. The report card, known as the Assessment Practices Survey, is a periodic evaluation of all California assessors to ensure they meet State standards.

For thousands of local governments across the state, the property tax is the single largest revenue source, providing critical funding for infrastructure, education, and social safety programs. The BOE's oversight of California's 58 county assessors ensures that homeowner and commercial properties – with a cumulative value of trillions of dollars – receive uniform and fair assessments and local governments receive reliable revenue.

Understanding the Role of an Elected Tax Board

The elected members of the BOE are directly accountable to taxpayers. This is the embodiment of "taxation with representation." Their constituents frequently contact the BOE members for assistance in navigating the state's complex tax system, and every Californian has an opportunity to address the board members directly every month during the BOE's public hearings. The staff

reports to the elected board in public meetings, which increases accountability and provides transparency for taxpayers and the media. This makes the BOE transparent and accountable.

Lower-income taxpayers cannot afford high-priced law firms or accountants to represent them when appealing the findings of an audit. Many of these taxpayers do not understand California's complex tax laws, the appeals or settlement process, or the near-impossibility of proving reasonable cause for missing tax deadlines, and they face frustration and potentially high-cost penalties while trying to navigate the tax system. The BOE works with these taxpayers. The elected BOE members help guide their constituents through the process. In many cases, taxpayers are unaware of the law, and they are likely to lose their dispute – but *how* they lose is important. When the law is gray or uncertain, and when there is an evident lack of understanding or something clearly lost in translation – literally true for taxpayers who do not speak English as their first language – the BOE members are able to provide assistance. When the BOE heard appeals prior to 2017, they often would waive interest or penalties in the interest of justice and would try to find a way to help give a taxpayer a soft landing. The appointed administrative law judges who now hear such appeals often note the harshness of various laws, but do not look for ways to mitigate the harshness. ACA 11 will throw more taxpayers into the Office of Tax Appeals pipeline, where a simple misunderstanding can ruin a person's life and livelihood.

How the Board of Equalization Operates

ACA 11 would require taxpayers to move into a tax administration process where taxpayer engagement is limited, and agency oversight is minimal. During the last two years, the State Board of Equalization undertook one of the biggest changes to the property tax system in decades when implementing Proposition 19 of 2020. The BOE conducted countless hours of stakeholder meetings, listening to tax practitioners, experts, homeowners and local government representatives to implement a measure that included internal inconsistencies that needed to be clarified quickly due to a short timeline for implementation. While the process was painstaking, the outcome was a much better work product because all stakeholders came to the table to provide comment and expertise to shape implementation language and update property tax guidelines. Developing implementation regulations in the public sphere is unique to the BOE, and is valuable because taxpayers can offer perspective about scenarios, experiences, and what might or what might not happen in the “real world.” The BOE offers taxpayers a public forum to participate in the rulemaking and regulatory process, while other state agencies often operate behind closed doors.

ACA 11 Consolidates Tax Administration Without Considering the Unintended Consequences

Lawmakers have said that consolidation of tax agencies will improve tax administration, but the unintended consequences have not been fully vetted and could further erode public trust in government and tax administration.

AB 102 (Chapter 16, Statutes of 2017) overhauled tax administration in California. In the five years since AB 102's passage, the public perception that California is a hostile environment for businesses and taxpayers has become even more true in the regulatory environment. ACA 11 would worsen this hostile environment by allowing the following trends to continue and expand to property tax administration:

- Allowing unelected government staff to move forward with regulatory changes that stand in stark contrast to the statutory intent of tax laws passed by the elected members of the Legislature.
- Ignoring California court decisions, for more than a decade, by not issuing refunds when the state over-collects taxes.
- Rewriting audit guidelines, manuals, and advice that taxpayers have relied on for decades, without engaging taxpayers or seeking input from stakeholders, and if input is provided, it is mostly ignored.
- Telling a taxpayer mid-audit that new audit rules apply.
- Informing a taxpayer that basic questions about procedures for how an agency operates will require three to six months for a response.

Finally, by eliminating the BOE, ACA 11 would reduce oversight of the Franchise Tax Board, which administers California's income and franchise taxes. Public trust in income tax administration is a vital part of California's system of voluntary compliance and self-reporting, and ACA 11 would undermine that trust by eliminating one of the two publicly elected members of the three-member board.

For the foregoing reasons, CalTax and the signatories listed below are **OPPOSED** to ACA 11

Sincerely,



Robert Gutierrez
President
California Taxpayers Association

On behalf of...

California Taxpayers Association
Acclamation Insurance Management Services
Alameda County Taxpayers Association
Allied Managed Care
Building Owners and Managers Association
California Business Properties Association
California Distributors Association
Coalition of Small and Disabled Veteran Businesses
Council on State Taxation
CTIA – The Wireless Association
Family Business Association of California
Flasher Barricade Association
NAIOP, the Commercial Real Estate Development Association
Orange County Business Council
Orange County Taxpayers Association

The California Taxpayers Association is a nonpartisan, nonprofit association formed to support good tax policy, oppose unnecessary taxes and promote government efficiency. Established in 1926, CalTax is the oldest and largest group representing California taxpayers.

Ryan, LLC
Solano County Taxpayers Association
West Coast Lumber and Building Material Association
Western States Petroleum Association

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