

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Assessor		(2) MEETING DATE June 13, 2006		(3) CONTACT/PHONE Daina Leary (805) 781-5638	
(4) SUBJECT Airline settlement agreements between the airline industry, the California Assessors' Association (CAA), and impacted counties					
(5) SUMMARY OF REQUEST A settlement has been reached between the airlines industry and the CAA regarding the assessment of "certified aircraft." The agreement for cargo carriers is separate from the agreement with passenger carriers. The agreements resolve the dispute between the industry and the assessors regarding the methodology and assessed values of certified aircraft for the 2002-03, 2003-04, and 2004-05 fiscal years. The two agreements must be approved and signed by the Board in order to execute the agreement.					
(6) RECOMMENDED ACTION It is recommended that the Board approve and sign the two settlement agreements between the CAA and the airlines named in the agreements regarding the assessment of certified aircraft for fiscal years 2002-03, 2003-04, and 2004-05.					
(7) FUNDING SOURCE(S) No increase to budgeted expenses. A refund of property tax revenues to the airlines of approximately \$60,000.		(8) CURRENT YEAR COST \$500 to process revisions on three aircraft assessments.		(9) ANNUAL COST No increase.	
(10) BUDGETED? <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A					
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST): County Counsel, County Auditor					
(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes, How Many? _____ <input type="checkbox"/> Permanent _____ <input type="checkbox"/> Limited Term _____ <input type="checkbox"/> Contract _____ <input type="checkbox"/> Temporary Help _____					
(13) SUPERVISOR DISTRICT(S) <input type="checkbox"/> 1st, <input type="checkbox"/> 2nd, <input type="checkbox"/> 3rd, <input type="checkbox"/> 4 th , <input type="checkbox"/> 5th, <input checked="" type="checkbox"/> All			(14) LOCATION MAP <input type="checkbox"/> Attached <input checked="" type="checkbox"/> N/A		(15) Maddy Act Appointments Signed-off by Clerk of the Board
(16) AGENDA PLACEMENT <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Hearing (Time Est. _) <input type="checkbox"/> Presentation <input type="checkbox"/> Board Business (Time Est. _)			(17) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions (Orig + 4 copies) <input checked="" type="checkbox"/> C(Orig + 4 <input type="checkbox"/> Ordinances (Orig + 4 copies) <input type="checkbox"/> N/A		
(18) NEED EXTRA EXECUTED COPIES? <input checked="" type="checkbox"/> Number: 1 _____ <input type="checkbox"/> Attached <input type="checkbox"/> N/A			(19) APPROPRIATION TRANSFER REQUIRED? <input type="checkbox"/> Submitted <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(20) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)			(21) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		(22) Agenda Item History <input checked="" type="checkbox"/> N/A Date _____
(23) ADMINISTRATIVE OFFICE REVIEW					

M. Schmidt

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6-13-06*



OFFICE OF TOM J. BORDONARO, JR., COUNTY ASSESSOR

COUNTY GOVERNMENT CENTER, 1055 MONTEREY ST, STE 360D SLO, CA 93408
(805) 781-5643 FAX: (805) 781-5641 WEB SITE: WWW.SLOCOASSR.NET

TO: BOARD OF SUPERVISORS

FROM: TOM BORDONARO, JR., COUNTY ASSESSOR 

DATE: JUNE 13, 2006

RE: REQUEST TO APPROVE THE SETTLEMENT AGREEMENT BETWEEN THE AIRLINE INDUSTRY AND CALIFORNIA ASSESSOR'S ASSOCIATION REGARDING THE ASSESSMENT OF CERTIFIED AIRCRAFT

Recommendation

It is recommended that the Board approve and sign the two settlement agreements between the California Assessors' Association (CAA) and the airlines named in the agreements regarding the assessment of certified aircraft for fiscal years 2002-03, 2003-04, and 2004-05. There are separate agreements for cargo carriers and passenger carriers, and both require the Board's approval. Assessor's signatures have been added to Passenger Carrier Agreement per County Counsel's recommendation. As per Section 5d of the agreement, signatures are for the individual parties involved and do not require all signatures to be present for Board approval.

Discussion

One of the more difficult and contentious areas of property tax assessment has been that of "certificated aircraft" (aircraft operated by an air carrier). Valuation issues have given rise to litigation and assessment appeals involving millions of dollars of property tax revenue in the state. The assessment and fiscal uncertainty created by this litigation and appeals has been disruptive to the airline industry, local government and to public schools that depend upon property tax revenue.

In 1998, the airlines industry and the California Assessors' Association (CAA) agreed to a settlement that provided a valuation methodology for the assessment of certified aircraft. It was formalized as Revenue and Taxation Code section 401.15. As a result, the airlines disposed of litigation and assessment appeals that were pending.

The events of September 11, 2001 brought about economic conditions that had enormous impact on the airlines industry. The demand for new and used aircraft declined dramatically, and once again the assessments of certificated aircraft were under contention. Most airlines filed appeals in the California counties in which they operated for the years following 2001. In 2002, the airlines industry proposed a valuation methodology that would reduce assessed values of their aircraft by excess of 70%. The CAA Aircraft Advisory Subcommittee countered by proposing an adjustment to the methodology in Section 401.15. The CAA accepted this method, but the airlines disagreed. The disputes were still unresolved when Revenue and Taxation Code section 401.15 expired after the 2003 assessment year.

From mid 2003 through 2004, appeals were heard by various local assessment appeals boards. These required lengthy and extensive preparation on the part of the airline industry and the local assessors. The most notable were the hearings in Los Angeles, San Bernardino, and Santa Clara counties. The assessments in Los Angeles County were sustained while the other two counties' assessments were reduced by 20 to 25%. The airlines filed legal actions in Superior Court contesting the appeals board decisions in which they did not obtain a reduction.

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American Eagle, Mesa Air, and Skywest airlines filed appeals in San Luis Obispo County. The combined decrease in assessed value that these airlines were requesting was \$7 million for just the 2004/05 assessment roll year.

The airlines pursued assessment relief through the State Legislature. In 2003, State Senator Ackerman authored SB593, which would have transferred the assessment function from the local assessor to the State Board of Equalization (BOE). This bill did not pass.

In 2004, Assemblyman Burton authored AB964. This was another effort to transfer the certificated aircraft assessment function from the local assessors to the BOE. The Air Transport Association, the airline trade industry group, supported this bill.

Concurrently, the industry, through its representative Deloitte & Touche LLP, contacted Los Angeles County Assessor Rick Auerbach, Chair of the CAA Aircraft Advisory Subcommittee, to explore the possibility of a settlement to resolve the assessment disputes for the years 2002 through 2004, and to develop an assessment methodology to be applied prospectively.

Fortunately, the joint assessor/airline committee reached agreement on an assessment methodology that was deemed fair and reasonable for all parties. Since its implementation required a statutory change, AB964 was amended to incorporate its provisions. The bill subsequently was passed unanimously by both houses of the Legislature and signed by the governor on October 7, 2005.

The joint assessor/airline committee was simultaneously striving to resolve those prior year differences while working on the new legislation. The new Revenue and Taxation Code section 401.17 addressed prospective assessments beginning with the 2005-06 fiscal year. It did not resolve the disagreements over the assessments in the years prior to 2005-06. The two settlements resolve the prior year differences. The first settlement applies to assessments for passenger air carriers, and the second applies to cargo carriers.

Other Agency Involvement

County Counsel has reviewed the two settlement agreements and found no issues with them. The County Auditor will process property tax refunds to the airlines.

Financial Considerations

Based upon the methodology proposed in the settlement agreement, the assessed value of the aircraft owned by American Eagle, Mesa Air, and Skywest will be decreased by \$3.9 million as opposed to the airlines requested \$7 million decrease for the 2004/05 assessment roll year.

The agreement also requires the revision of the 2002/03 and 2003/04 assessed values. The total decrease in assessed value for the three years is \$5.7 million. It is anticipated that these revisions will generate refunds or tax credits of approximately \$60,000 to the airlines.

The cost of processing the revisions on the effected assessments is estimated to be \$500 to \$600. The future cost of processing airline assessments is not expected to increase as a result of the settlement.

Results

The significant provisions of this settlement include:

- A methodology for assessing certificated aircraft for the fiscal years 2002-03, 2003-04, and 2004-05.
- Tax refunds and credits resulting from value reductions, depending upon the amount, may be spread over a four-year period.
- The signatory airlines will withdraw all pending assessment appeals applications and litigation.
- The air carriers will not pursue a value reduction on the grounds that embedded software in an aircraft should be excluded from assessment for the fiscal years through and including 2010-11.
- The air carriers will not pursue assessment by the State Board of Equalization for the fiscal years through and including 2010-11.

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In conclusion, there are valid and compelling reasons to approve this settlement agreement. These include: the need for a new post-September 11, 2001 aircraft valuation model; limiting the county's exposure to an uncertain future tax revenue loss from either the local assessment appeals boards or the courts; and the cost avoidance resulting from not having to expend limited staff and legal resources to defend our assessments before those venues is significant.

TJB:DL:KK:jw

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