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EXECUTIVE OFFICER

COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

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April 3, 2013

TO: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: Sachi A. Hamai
Executive Officer

SUBJECT: REPORT RE: TAX AGENT ORDINANCE AND AB 1151 (TING)

Summary

On June 6, 2012, Supervisor Knabe introduced a motion directing the County Counsel, the Executive Office of the Board and the Registrar-Recorder/County Clerk to draft language for a new ordinance which ensures increased transparency in the property tax arena in the County of Los Angeles. Our offices have been working together and with your Board in compliance with this and subsequent orders by your Board. The ordinance was presented to your Board on January 22, 2013 (see attached Board Letter). On January 29, 2013, your Board approved the introduction of an ordinance to register tax agents in Los Angeles County and to set February 26, 2013 for a public hearing on the adoption of the ordinance. At that public hearing, your Board continued the matter for 60 days, having learned of the introduction of **AB 1151 (Ting)** (attached), which would require the state to register and regulate tax agents in California. Your Board also directed me to report back in 30 days on AB 1151.

In response to your Board's direction, I am submitting this report and recommendation regarding AB 1151. My office has been working in consultation with the Chief Executive Office (CEO), the County Counsel, and the Registrar-Recorder/County Clerk in preparing this detailed report concerning the bill.

AB 1151 would, beginning July 1, 2014, require a property tax agent to register annually with the Secretary of State prior to representing a taxpayer before any county official, as defined. This measure is substantially similar to the County's proposed tax agent registration ordinance in that it would create a tax agent registration program, albeit at the State level, with one other fundamental difference. AB 1151 differs from the County's proposed ordinance in that it would not establish any processes or

requirements to maintain and publish tax agents' campaign activity reports. Otherwise, the bill contains many of the same provisions that are found in the County ordinance and, therefore, would have many of the same beneficial effects on the property tax assessment arena that the County ordinance would have.

County Counsel indicates that there is a strong likelihood that, if AB 1151 passes, the enacted statutes in that bill would preempt the County's tax agent registration ordinance which, in turn, would require your Board to repeal the County ordinance. Your Board may wish to consider further delaying action on the ordinance in order to determine whether AB 1151 will be enacted by the Legislature and consider the following steps that could be taken locally to ensure that your Board's primary concerns about tax agent activities are adequately addressed during this period:

1. Direct the Executive Office to make necessary enhancement to the assessment appeals database in order to provide your Board with quarterly reports showing property tax agents practicing before the Assessment Appeals Board, their clients, and the specific properties represented.
2. Direct the Registrar-Recorder/County Clerk to continue making computer enhancements previously approved by your Board to allow the tracking and reporting of campaign contributions made by tax agents and tax agent firms.
3. Direct the Office of the County Counsel to further research and report back to your Board whether the County Code could be amended to require tax agents to semiannually report all campaign contributions made to any elected official or candidate for elected office in any jurisdiction within Los Angeles County, other than the Assessor and candidates for Assessor, with minimal risk of preemption by AB 1151.

Additionally, in view of the similarities between AB 1151 and the County ordinance and resulting benefits, your Board may wish to **consider supporting AB 1151**. Please note that the CEO indicates that, since there is no existing Board policy to support legislation that would implement a statewide tax agent registration program, the decision whether to support AB 1151 is a matter of policy for Board determination.

Your Board also may wish to **consider seeking an amendment to AB 1151** while it moves through legislative process that would specifically permit counties to develop campaign reporting requirements affecting tax agents and related procedures. This would ensure that, if AB 1151 were enacted, any County Code or policy adopted by your Board relating to tax agent campaign contributions would not be preempted by the bill. Draft legislative language for this purpose is provided later in this report. Further, the author's office has indicated that he intends to amend the bill to include training and ethics requirements that a person would have to meet in order to register as a tax agent in California.

Of course, the fate of AB 1151 is unknown at this time. A hearing on the bill has been tentatively scheduled for hearing on Wednesday, April 17, 2013 in the Assembly Committee on Local Government. If the bill is successful at its first hearing, it then moves to the Revenue and Taxation Committee for a second policy committee hearing. If successful in that committee, it would move to the Assembly Appropriations Committee. The bill would undergo a similar process in the second house, but would probably only have one policy committee hearing in Senate Governance and Finance Committee. The bill has, so far, drawn support from the California Association of Clerks and Election Officials. A group calling itself the California Taxpayer Protection Committee has sent the author a letter of opposition to the bill.

Background

Under current law, as it relates to annual property valuation and taxation, a taxpayer is authorized to file an application for a reduction in an assessment with a county's assessment appeals board. Revenue and Taxation Code and the State Board of Equalization-adopted Property Tax Rules contained in the California Code of Regulations recognize that an authorized agent may represent a taxpayer in an assessment appeal proceeding. Existing statutes under the Business and Professions Code provide for specific conditions in which certain assessment reduction filing services provided by tax agents may be lawfully offered in written solicitations. However, it appears that neither existing state law nor any ordinance of any county in California requires tax agents to be registered and regulated by a public agency.

In the 2011-2012 Legislative session, two separate bills, AB 404 (Gatto) and AB 2183 (Smyth), were subject to late gut-and-amend actions in the Senate to require tax agent registration. AB 404 would have required tax agents to register and be regulated as lobbyists in the six counties in California that have enacted local lobbyist registration ordinances. AB 404 failed passage on the Senate Floor. AB 2183 would have required each of the 58 counties to separately register tax agents and would have enacted a very extensive regulatory program to be administered by counties. AB 2183 died in the Senate Appropriations Committee.

On August 28, 2012, your Board directed County Counsel, the Executive Office of the Board, and the Registrar-Recorder/County-Clerk to draft an ordinance requiring tax agents to register with the Executive Office and to file reports disclosing all campaign contributions made to any elected official or candidate for elected office in any jurisdiction within Los Angeles County. This reporting would exclude contributions to the Assessor or candidate for Assessor as they are already prohibited by the County Code. The tax agent registration ordinance would have implemented a registration process for all tax agents practicing in the County beginning July 1, 2013.

AB 1151 (Ting) was introduced on February 22, 2013. In light of the bill's introduction, at its public hearing on the tax agent registration ordinance on February 26, 2013, your

Board adopted a motion by Supervisor Knabe to continue the hearing of the ordinance for 60 days to April 23, 2013 to review AB 1151. Further, your Board then directed me to report back in 30 days on the bill.

AB 1151 (Ting) Tax Agent Registration

Beginning July 1, 2014, AB 1151 would require a tax agent, defined as an individual employed to communicate on behalf of the taxpayer with any county official for property tax valuation purposes, to register annually with the Secretary of State prior to representing any taxpayer before county officials. This bill would also authorize the Attorney General to pursue civil fines for the failure to comply with these provisions.

The author's office indicates that Assembly Member Ting is the sponsor of the bill, and that AB 1151 reflects a proactive effort on his part and on the part of tax agents in response to the assessor scandals in Los Angeles County. His staff noted that, as an ex-assessor, Assembly Member Ting has a strong interest in this subject. His office further acknowledged that much of the language contained in the bill came from the County's proposed ordinance, with the exclusion of the duties and prohibitions affecting tax agents as these were considered duplicative of existing state statutes.

AB 1151 is sponsored by its author, and supported by the California Association of Clerks and Election Officials. The bill is opposed by the California Taxpayer Protection Committee.

The bill is currently awaiting hearing in the Assembly Local Government Committee.

Comparison of AB 1151 and the County's Proposed Ordinance

Similarities

As noted above, AB 1151 and the County's proposed tax agent registration ordinance are substantially similar in their main provisions, including the following:

- **Definitions of Terms:** AB 1151 and the County ordinance define key terms similarly. In particular, both define a tax agent as an individual employed to communicate on behalf of the taxpayer with any county official for the purpose of influencing official action relating to the establishment of property tax valuation.
- **Annual Registration of Agents:** Both require annual registration and related fees. Under AB 1151, tax agents would register annually with the Secretary of State and pay an as-yet unspecified annual fee. Under the County ordinance, agents would register annually with the Executive Office of the Board and pay a \$250 annual fee.

- **Compliance Enforcement:** Both provide for an authority to pursue fines or fees for failure to comply with these provisions. AB 1151 would authorize the Attorney General to pursue civil fines for a failure to comply with the law. The County ordinance would give the Executive Officer discretion to pursue administrative fines or non-compliance fees.
- **On-line Publishing:** AB 1151 would require the Secretary of State to semiannually post a list of registered tax agents on its Internet Web site. The County's Tax Agent Registration Program would be responsible for posting an online listing of all tax agents working throughout the County, including those not in compliance with the ordinance.
- **Tax Agent Requirements:** Both AB 1151 and the County ordinance would prohibit an agent from registering and providing services as a tax agent if he or she has been convicted of a felony under State or Federal tax law, or any other criminal offense involving perjury, fraud, breach of trust, or moral turpitude, or has been disbarred from practice as an attorney, certified public accountant, or actuary.

Primary Differences

Noting that AB 1151 would create statewide regulation while the ordinance would be specific to Los Angeles County, AB 1151 and the proposed tax agent registration ordinance additionally differ in the following ways:

- **Tax Agents' Campaign Activity Reports:** The proposed County ordinance specifies that the Assessment Appeals Board Division of the Executive Office would be responsible for publishing semi-annual tax agents' campaign activity reports. As introduced, AB 1151 would not establish any processes or requirements to maintain and publish reports disclosing campaign contributions made to elected officials or candidates for elected office by tax agents.
- **Tax Agent Duties and Prohibitions:** Unlike AB 1151, the tax agent registration ordinance, would include a list of duties and prohibited activities for tax agents to abide by. These include compliance with all applicable state and local laws, a prohibition against tax agents making gifts to County officials, a prohibition against a tax agent's making false and misleading practices in the submission of documents and information, among others. However, as indicated elsewhere in this report, the author's office has stated his intention to amend the bill to contain both ethics and training requirements that tax agents would be expected to comply with.

- **Effective Date:** If enacted, AB 1151 would take effect beginning July 1, 2014. If adopted, the County ordinance would take effect a year earlier, beginning July 1, 2013.
- **Statutory Standing:** If enacted, AB 1151 would have the authority of being State law. The bill provides that any person who acts as a tax agent, but who is currently not registered with the Secretary of State as a tax agent, has violated the law. The Secretary of State would be given authority to investigate violations of the bill's provisions and would have the authority to send notice to a tax agent and his or her clients of the tax agent's failure to cure a violation.
- **Criminal History of Tax Agents:** Both the County ordinance and AB 1151 list facts that would prohibit a person from registering and providing services. However, whereas the ordinance would bar registration of a person who has been convicted of any *criminal* offense under state or federal tax laws, AB 1151 would bar registration of anyone convicted of any *felony* under state or federal tax laws.
- **County Role:** Under AB 1151, the County would have no responsibilities and, thus, incur no costs to administer the program. Under the proposed tax agent registration ordinance, the County would be solely responsible for all related implementation, management, staffing, and oversight of the County program.
- In its definition of "Influencing official action," AB 1151 includes a statement that "[t]he filing or submitting of required county forms for compliance purposes and communication relating to those filings shall not be considered influencing official action." The County ordinance makes no such distinction.
- AB 1151 allows any person to file a complaint with the Attorney General that a tax agent has violated the provisions of the bill, which are to register and pay a registration fee. Likewise, the County ordinance allows any person to file a complaint with the Executive Officer for failure to follow the ordinance provisions, which not only include the failure to register and pay a registration fee, but also includes the failure to follow the ordinance's duties and prohibitions.

Amendments Currently Being Considered by AB 1151's Author

Assemblymember Ting's staff indicates that he fully intends to amend the bill to include both training and ethics requirements that a person must meet before being able to register as a tax agent, although the exact form that these provisions might take is as yet undecided. At the moment, the Assemblymember is looking at training and ethics provisions that are required in other states, including Texas and Tennessee.

Concerns about the Bill

As noted in the Summary, AB 1151 is awaiting hearing in Assembly Local Government Committee. That hearing has been tentatively scheduled for Wednesday, April 17, 2013. If successful in the Local Government Committee, it would move to the Assembly Revenue and Taxation Committee for a second policy hearing. If successful in both policy committees, the bill would then move to the Assembly Appropriations Committee. It is impossible to predict whether the Appropriations Committee would deem that the expected revenue from tax agent registration fees would fully cover the cost of administering AB 1151's tax agent registration program. However, there may be no reason to expect that cost recovery at the state level would operate any differently than it would in Los Angeles County.

AB 1151 is supported by the California Association of Clerks and Election Officials. This organization is made up of Clerks of the Board of Supervisors (who are administrators of the assessment appeal program in counties) as well as County Clerks and County Election Officials.

The only opposition of record is the California Taxpayer Protection Committee. Very little seems to be known about this group other than it is apparently based in the western Sierra foothills and refers to itself as a loose-knit group of volunteer individuals and affiliated groups opposed to government spending.

County Impact

AB 1151 appears to have no immediate, direct impact on any County office, as the bill contains no provision that would require action by counties. Moreover, the bill would provide statewide uniformity of regulation and, therefore, professional practice by tax agents throughout the state. AB 1151 also would provide increased transparency with respect to the actions of tax agents who practice in multiple counties. Additionally, the bill would provide a single point of contact for information on tax agents and a single point where counties and taxpayers, if necessary, could seek a statewide remedy for tax agents who have failed to comply with the law. The sanctions applied by the state would apply to an offending tax agent wherever he or she practices.

In addition, as described below, County Counsel indicates there is a strong likelihood that, should AB 1151 pass, the enacted statutes would preempt the County's tax agent registration ordinance, which would require the County's ordinance to be repealed.

Potential Preemption of the AB 1151 Statute

County Counsel indicates that, in their view, if AB 1151 is enacted, there is a strong likelihood that state law would preempt the local ordinance. Counsel notes that an ordinance cannot infringe upon a field which is fully occupied by state law. Should the

bill pass, an argument could be made that the ordinance has entered a field fully occupied by state law wherein the state has provided a complete, comprehensive statutory scheme, which regulates the conduct of assessors, assessment hearings, and now by AB 1151, tax agents.

County Counsel indicates there are two types of preemption, express preemption and implied preemption. Express preemption occurs when local legislation enters an area that is fully occupied by general law and the Legislature has expressly manifested its intent to fully occupy the area. This is not the case with AB 1151, since as currently written, the bill does not expressly state this intent. Implied preemption occurs when: (1) general law so completely covers the subject as to clearly indicate the matter is exclusively one of state concern; (2) general law partially covers the subject in terms clearly indicating a paramount state concern that will not tolerate further local action; or (3) general law partially covers the subject and the adverse effect of a local ordinance

on transient citizens of the state outweighs the possible municipal benefit. This likely would be the case with the County's ordinance, as state law already governs the activities of the assessor and his/her office, and also how assessment appeals are to be conducted. If AB 1151 is enacted, state law would also govern tax agents, allowing for the probable conclusion that it creates a complete regulation of the property assessment field.

Issues of preemption must be decided by a court of law; therefore, County counsel cannot predict with certainty whether AB 1151 will preempt the County's proposed ordinance. However, County Counsel believes there is a strong likelihood that, if enacted, AB 1151 would preempt the County's ordinance.

Other Options

Implement the County Ordinance for One Year

My office is currently working to implement the proposed County tax agent registration ordinance, which, as currently drafted, would require tax agents to begin registering with the County beginning on July 1, 2013. We have requested a budget adjustment for Fiscal Year 2012-13 amounting to \$279,000, including filling four added positions in the Executive Office budget and for S&S and one-time costs for system development and to address space issues related to the program. My office has estimated that the ongoing costs of \$431,000 relating to administering the ordinance for 2013-14 may be offset by revenue generated from the registration fees paid by local tax agents. However, if the anticipated registration fee revenues were to fall short of expectations for any reason, there could be some additional, annual net county cost to the program. If AB 1151 were enacted and the state law would preempt the local ordinance, the added unit in the Assessment Appeals Division would have to be disbanded after allocating costs and resources to that unit.

Your board could consider enacting the ordinance for a period of one year starting July 2013, when tax agents would be required to register under the proposed ordinance, until July 2014, when tax agents would be required to register with the Secretary of State under AB 1151, if enacted. This would ensure that tax agents were registered continuously during the intervening fiscal year. However, by July 2014 the County costs described above already would have been incurred and the staff of the unit within the Assessment Appeals Division would have to be placed elsewhere in the County or their employment terminated. And there would be some costs incurred in notifying registered tax agents of the repeal of the County's ordinance and in re-printing informational materials for taxpayers. Thus, this option may create unnecessary confusion for the taxpayer community.

Computer Enhancements to create Tax Agent/Client Computer Reports

One option to address the transparency issue between July 1, 2013 and July 1, 2014 when AB 1151 would be implemented, at almost no cost to the County, would be for my office to make necessary enhancements to the assessment appeals database in order to provide periodic and on-demand reports showing property tax agents practicing before the Assessment Appeals Board in Los Angeles County, their clients, and the specific properties represented.

County Requirement that Tax Agents Report Campaign Contributions

While AB 1151 contains no provisions for the publishing of tax agents' campaign activity reports, your Board may be able to impose that requirement by an amendment to the County Code or enactment of a County policy. However, the campaign provisions relating to tax agents might be subject to preemption by AB 1151 as well. Further legal analysis is needed on this point in order to be able to give the Board possible options.

Seek Amendment of AB 1151

As noted in the Summary, above, your board may wish to approach Assembly Member Ting regarding an amendment to his bill that would permit counties to develop campaign contribution reporting requirements and related procedures with respect to candidates for elected office within a county or to bar campaign contributions to elected County officials. This action would be intended to eliminate the possibility of preemption with respect to campaign ordinance provisions affecting tax agents.

County Counsel has suggested that the amendment might read:

Section 22260.10. *Notwithstanding the provisions of this chapter, a county may, by ordinance, develop tax agent reporting requirements for campaign contributions to elected officials in that county.*

Recommendation

My office believes that passage of AB 1151 would bring with it the benefit of the state, rather than the County, having to devote resources to administering a tax agent registration and enforcement program. It is anticipated that passage of the bill would benefit all parties in the property tax assessment process through statewide uniformity and consistency of the law's requirements, greater transparency resulting from availability of uniform statewide data relating to tax agent compliance, a single point of contact for information and enforcement, and potentially greater fairness to taxpayers and tax agents, alike. Moreover, my office believes that the possible preemption of the County's ordinance by AB 1151 causes a great deal of uncertainty.

For these reasons, your Board may wish to delay action on the proposed County ordinance until such time as the County can make a solid assessment as to whether AB 1151 will likely be enacted.

In the interim, as the bill moves through the legislative process, I further recommend that your Board consider taking a support position on AB 1151. The Chief Executive Office (CEO) indicates they are supportive of our office's recommendation; however, **since there is no existing Board policy to support legislation that would implement a statewide tax agent registration program, support for AB 1151 is a matter of policy for Board determination.**

Further, your Board may wish to **consider seeking an amendment to AB 1151** that would specifically permit counties to develop campaign contribution reporting requirements and related procedures with respect to candidates for elected office within a county. This would give the County the ability to achieve its stated desire to require tax agents to semiannually report such contributions as intended in the proposed County tax agent registration ordinance without the possibility of that local requirement being preempted by AB 1151. As indicated above, the amendment could read as follows:

Section 22260.10. Notwithstanding the provisions of this chapter, a county may, by ordinance, develop tax agent reporting requirements for campaign contributions to elected officials in that county.

Finally, your Board may wish to consider taking the following actions locally to ensure that your Board's primary concerns about tax agent activities are appropriately addressed:

1. Direct my office to make necessary enhancements to the assessment appeals database in order to provide quarterly reports showing property tax agents practicing before the Assessment Appeals Board, their clients, and the specific properties represented

2. Direct the Registrar-Recorder/County Clerk to continue making computer enhancements previously approved by your board to allow the tracking and reporting of campaign contributions made by tax agents and tax agent firms.
3. Direct the Office of the County Counsel to further research and report back to your Board whether the County Code could be amended to require tax agents to semiannually report all campaign contributions made to any elected official or candidate for elected office in any jurisdiction within Los Angeles County, other than the Assessor and candidates for Assessor, with minimal risk of preemption by AB 1151.

My office will continue working with County Counsel, the Registrar-Recorder/County Clerk, and the CEO on this issue as your Board directs.

Attachments

c: William T Fujioka, Chief Executive Office
John F. Krattli, County Counsel
Dean C. Logan, Registrar-Recorder/County Clerk

ASSEMBLY BILL

No. 1151

Introduced by Assembly Member Ting

February 22, 2013

An act to add Chapter 14.5 (commencing with Section 22260) to Division 8 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 1151, as introduced, Ting. Tax agent registration.

Existing law requires every assessor to assess all property subject to general property taxation at its full value and to prepare an assessment roll in which all property within the county which it is the assessor's duty to assess is required to be listed. Existing law requires a county board of equalization or an assessment appeals board to equalize the valuation of taxable property within the county for the purpose of taxation. Existing law authorizes a taxpayer, with respect to each assessment year, to file an application for a reduction in an assessment, as provided, with the county board, which is the county board of supervisors meeting as a county board of equalization of an assessment appeals board.

This bill would, commencing July 1, 2014, prohibit a tax agent, defined as any individual who is employed, is under contract, or otherwise receives compensation to communicate directly with any county official for the purpose of influencing official action relating to the establishment of a taxable value for any property subject to taxation, from representing a tax payer before a county official without first being registered and issued a registration number by the Secretary of State. The bill would require a tax agent to file with the Secretary of State an application for registration that includes specified information and an

unspecified registration fee. The bill would make the registration subject to annual renewal and require the payment of an unspecified renewal fee.

This bill would require the Secretary of State to semiannually develop a list of registered tax agents and to make that list publicly available on its Internet Web site. The bill would authorize the Secretary of State to send a tax agent and the represented taxpayer a notice of noncompliance for the failure to comply with these provisions, as specified. The bill would also authorize the Attorney General to pursue civil fines for the failure to comply with these provisions subject to specified procedures. The bill would authorize the Secretary of State to adopt rules and regulations for the purpose of carrying out these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 14.5 (commencing with Section 22260)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 14.5. TAX AGENTS
6

7 22260. The following definitions apply for the purposes of this
8 chapter:

9 (a) "County official" means the county assessor, an assessment
10 appeals board member, an assessment hearing officer, and any
11 other county employee within those offices whose duties are not
12 primarily clerical or manual.

13 (b) "Influencing official action" means representing a taxpayer
14 as an agent in connection with any matter before any county official
15 by promoting, supporting, influencing, seeking modification of,
16 opposing, or seeking delay of any official action by any means.
17 The filing or submitting of required county forms for compliance
18 purposes and communication relating to those filings shall not be
19 considered influencing official action.

20 (c) "Official action" means establishing a taxable value for any
21 property subject to property taxation, including the initial value,
22 declines in value, corrections to value, and any other changes in
23 the taxable value set, completing an assessment roll showing the

1 assessed values of any property, applying all legal exemptions to
2 assessments, issuing refunds, establishing payment plans, applying
3 penalties, and deciding all property assessment disputes between
4 taxpayers and the county assessor.

5 (d) “Public official” and “public employee” mean any
6 government official or employee of any state or local government
7 agency.

8 (e) “Tax agent” means any individual who is employed, under
9 contract, or otherwise receives compensation to communicate
10 directly, or through agents, employees or subcontractors, with any
11 county official for the purpose of influencing official action. A tax
12 agent shall not include:

13 (1) An elected or appointed public official or public employee
14 when acting in his or her official capacity.

15 (2) A person representing any of the following:

16 (A) Himself or herself.

17 (B) An immediate family member.

18 (C) An entity of which the person is a partner or owner of 10
19 percent or more of the value of the entity.

20 22260.2. (a) (1) Each tax agent, within 30 days after July 1,
21 2014, shall file with the Secretary of State an application for a
22 registration containing the following information:

23 (A) The tax agent’s full name, business address, business
24 telephone number, and business e-mail address, if applicable.

25 (B) The name of the tax agent’s employing tax agent firm, if
26 applicable.

27 (2) A tax agent shall also pay the Secretary of State a registration
28 fee in the amount of ____ dollars (\$____).

29 (b) If the requirements of subdivision (a) are satisfied, the
30 Secretary of State shall issue a tax agent a tax agent registration
31 number.

32 (c) Beginning July 1, 2014, no tax agent shall represent tax
33 payers before a county official without first being registered and
34 issued a registration number pursuant to this section.

35 (d) A registration issued pursuant to this section shall expire
36 one year from its date of issuance unless and until that person
37 terminates the registration. An expired registration may be renewed
38 annually and the registrant shall pay an annual renewal registration
39 fee in the amount of ____ dollars (\$____) to the Secretary of State.

- 1 (e) A person may not register or provide services as a tax agent
- 2 if that person:
- 3 (1) Has been convicted of any felony under state or federal tax
- 4 laws.
- 5 (2) Has been convicted of any other criminal offense involving
- 6 dishonesty, breach of trust, or moral turpitude.
- 7 (3) Has been disbarred or suspended for any reason other than
- 8 the failure to pay dues from practice as an attorney, certified public
- 9 accountant, public accountant, or actuary by any duly constituted
- 10 authority of any state, territory, or possession of the United States,
- 11 including a commonwealth, or the District of Columbia, any court
- 12 of record, or any agency, body, or board.
- 13 (f) Fees collected pursuant to this chapter shall be deposited in
- 14 the Secretary of State’s Business Fees Fund established in Section
- 15 12176 of the Government Code.
- 16 22260.4. (a) Within 30 days of any change in any of the
- 17 registration information submitted pursuant to Section 22260.2, a
- 18 tax agent shall file updated registration information with the
- 19 Secretary of State.
- 20 (b) When a tax agent ceases all activities related to influencing
- 21 official action, this fact shall be reported to the Secretary of State.
- 22 (c) It shall be a violation of this chapter for any person to act as
- 23 a tax agent if that person is not registered as a tax agent pursuant
- 24 to Section 22260.2 or if that person was previously registered as
- 25 a tax agent pursuant to Section 22260.2 but that person is no longer
- 26 registered as a tax agent.
- 27 22260.8. The secretary shall semiannually develop a list of
- 28 registered tax agents and make that list available to the public on
- 29 its Internet Web site.
- 30 22260.12. (a) If, after investigation, it is determined by the
- 31 Secretary of State that any tax agent acting on behalf of the
- 32 taxpayer fails to comply with this chapter and the tax agent has
- 33 failed to cure the violation within 30 days of first receiving notice,
- 34 the Secretary of State shall send the tax agent and the taxpayer or
- 35 taxpayers whom the tax agent represents a notice of the tax agent’s
- 36 noncompliance.
- 37 (b) Any person may file a complaint with the Attorney General
- 38 that any tax agent has violated any provision of this chapter.
- 39 (c) For any violation of this chapter, the Attorney General shall
- 40 have the discretion to pursue civil fines for noncompliance or

1 violations of this chapter. The Attorney General shall be designated
2 as the enforcement officer for determination and imposition of the
3 civil fines and noncompliance fees to be issued.

4 (d) Notwithstanding subdivision (c), no administrative fine shall
5 be issued if the first violation of this chapter is cured within 30
6 days of the date in which the tax agent receives notice of the
7 violation from the Attorney General.

8 22260.14. Subject to the Administrative Procedure Act (Chapter
9 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
10 Title 2 of the Government Code), the Secretary of State may
11 develop rules and regulations for the administration of this chapter.

12 22260.16. This chapter shall become operative on July 1, 2014.

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COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

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ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

January 22, 2013

13 January 29, 2013

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

SET FOR HEARING: FEBRUARY 26, 2013

Dear Supervisors:

**AMENDMENT TO THE LOS ANGELES COUNTY CODE ADDING THE TAX AGENT
REGISTRATION ORDINANCE AND AUTHORITY TO SET FOR HEARING THE
ADOPTION OF THE TAX AGENT REGISTRATION ORDINANCE AND ASSOCIATED
FILING FEES AND RELATED ACTIONS (3 VOTES)**

SUBJECT

Recommendation to introduce an amendment to the Los Angeles County Code adding the Tax Agent Registration Ordinance and authority to set for public hearing the adoption of the Tax Agent Registration Ordinance and associated filing fees and related actions.

JOINT RECOMMENDATION WITH COUNTY COUNSEL AND REGISTRAR- RECORDER/COUNTY CLERK THAT YOUR BOARD:

1. Approve for introduction the accompanying ordinance amending Title 2 – Administration of the Los Angeles County Code to add Chapter 2.165, the Tax Agent Registration Ordinance, which sets forth detail registration requirements for tax agents.
2. Instruct the Executive Officer of the Board of Supervisors to publish a notice and set for public hearing, pursuant to Government Code sections 6018 and 6062a, the consideration of the Tax Agent Registration Ordinance which also implements a tax agent registration fee.

AFTER THE PUBLIC HEARING, IT IS RECOMMENDED THAT YOUR BOARD:

3. Adopt the ordinance implementing the Tax Agent Registration Program which, among other things, also imposes the tax agent registration fee.
4. Approve the attached Rules Relative to County of Los Angeles Tax Agent Registration Ordinance, Chapter 2.165 of the Los Angeles County Code and instruct the Executive Officer of the Board of Supervisors to distribute copies of the Rules to registered tax agents and affected County Departments.
5. Approve an interim ordinance authority for the Executive Office of the Board of Supervisors, pursuant to County Code section 6.06.020, for one (1.0) Head, Commission Services; two (2.0) Head Board Specialists; and one (1.0) Senior Board Specialist to enable the Executive Office to begin the administration of the Tax Agent Registration Ordinance.
6. Approve an appropriation adjustment in the amount of \$279,000 which includes \$130,000 for Salaries and Employee Benefits (S&EB), and \$149,000 for Services and Supplies (S&S) for Fiscal Year 2012-13 to support the first four months of the program. Included in the S&S are one-time costs for system development and to address space issues related to the program. The initial cost of the program will be a one-time investment for the County, however, in the subsequent years the program is expected to be funded by the revenue generated from the tax agents' registration fees.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On August 28, 2012, your Board instructed the Office of County Counsel, Executive Officer and Registrar-Recorder/County Clerk, among other actions, to draft an ordinance requiring tax agents to register with the Executive Office and file reports disclosing all campaign contributions made by tax agents to any elected official or candidate for elected office in any jurisdiction within Los Angeles County, other than the Assessor or candidate for Assessor.

The Executive Office of the Board of Supervisors plans to implement the Tax Agent Registration Program within the Assessment Appeals Board Division, which currently interacts with tax agents and other County departments responsible for the local property tax system. The Tax Agent Registration Program will involve identifying tax agents, processing registrations, and posting online reports of the tax agents who represent various taxpayers throughout the County and online posting of the names of

agents who are not in compliance with the ordinance. In addition, the Assessment Appeals Board Division will be responsible for receiving the tax agents' semi-annual campaign activity reports, and the Registrar-Recorder/County Clerk will continue to be responsible for publishing the semi-annual tax agents' campaign activity reports.

The recommended positions are necessary to administer the Tax Agent Registration Program which will increase transparency in the Assessment Appeals process and provide efficient interaction between the tax agents, Assessment Appeals Board, Office of the Assessor, Treasurer and Tax Collector, Auditor-Controller and taxpayers to reduce any delays in a taxpayers due process rights.

The anticipated cost of this program is approximately \$431,000 annually, but will be offset by the tax agent registration fee in future years. Justification for inclusion of funded ordinance positions for one Head, Commission Services; two Head Board Specialists; and one Senior Board Specialist will be included in the fiscal year (FY) 2013-14 Recommended Budget.

In addition, pursuant to the authority granted under the Ordinance, the Executive Office of the Board of Supervisors in collaboration with the Office of the County Counsel has developed the attached Rules Relative to the County of Los Angeles Tax Agent Registration Ordinance.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommended action is consistent with principles of the countywide Strategic Plan Goal 1: Operational Effectiveness.

FISCAL IMPACT/FINANCING

The appropriation adjustment for FY 2012-13, in the amount of \$279,000, will provide spending authority for S&EB in the amount of \$130,000 and S&S in the amount of \$149,000 to support the first four months of the Tax Agent Registration Program. The appropriation will be funded by the Provisional Financing Uses budget; however, ongoing costs for the program will be fully off-set by the revenue collected from the tax agents' registration fees.

The annualized cost of the S&EB and S&S (\$431,000) will be included in the FY 2013-14 Recommended Budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On August 28, 2012, your Board instructed the Office of County Counsel, Executive Officer and Registrar-Recorder/County Clerk to draft language for a new ordinance that would ensure increased transparency in the property tax arena in the County of Los Angeles.

At your November 7, 2012, Board meeting, the initially drafted ordinance was referred back to our departments for further review and modification, based in part on discussions with the tax agent community and a further review of the existing requirements imposed on tax agents under State law.

County Counsel, in consultation with the Executive Office of the Board of Supervisors, has drafted an ordinance requiring the registration of tax agents who practice in Los Angeles County and who have business before the Office of the Assessor, the Treasurer and Tax Collector, the Auditor-Controller, Assessment Appeals Board, and Assessment Hearing Officers. The ordinance amends Title 2 – Administration of the Los Angeles County Code by adding Chapter 2.165 which sets forth all of the registration and other requirements for tax agents practicing in Los Angeles County.

The ordinance and the rules require annual registration and semi-annual reports. The reports will describe campaign contributions made to any elected official or candidate for elected office in any jurisdiction within Los Angeles County, other than to the Assessor or candidate for Assessor.

This ordinance is also consistent with the campaign contribution ban set forth in the County Code Chapter 2.190 – Political Campaigns for County Officers which your Board approved on November 13, 2012.

The ordinance establishes an annual \$250 filing fee for tax agents. A public hearing is required for consideration of this fee pursuant to Government Code section 60018.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the appropriation adjustment will enable the Executive Office of the Board of Supervisors to begin the administration of the Tax Agent Registration Program.

The Honorable Board of Supervisors
January 22, 2013
Page 5

CONCLUSION

Please return one adopted copy of this letter to the Executive Office, Fiscal Services Division.

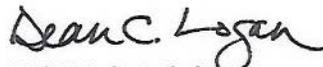
Respectfully submitted,


SACHI A. HAMAI

Executive Officer, Board of Supervisors


JOHN F. KRATTLI

County Counsel



DEAN C. LOGAN

Registrar-Recorder/County Clerk

SAH:hc

Attachments

c: Chief Executive Officer
Treasurer and Tax Collector
Auditor-Controller

COUNTY OF LOS ANGELES
REQUEST FOR APPROPRIATION ADJUSTMENT
DEPARTMENT OF BOARD OF SUPERVISORS

DEPT'S. NO. 061

January 22, 2013

AUDITOR-CONTROLLER:

THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. PLEASE CONFIRM THE ACCOUNTING ENTRIES AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF EXECUTIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR

FY 2012-13

3 - VOTES

SOURCES

USES

PROVISIONAL FINANCING USES - VARIOUS
A01-CB-2000-13749-13760
Services and Supplies - \$279,000
DECREASE APPROPRIATION

BOARD OF SUPERVISORS
A01-BS-1000-10010
Salaries and Employee Benefits - \$130,000
INCREASE APPROPRIATION

BOARD OF SUPERVISORS
A01-BS-2000-10010
Services and Supplies - \$149,000
INCREASE APPROPRIATION

SOURCES TOTAL: \$ 279,000

USES TOTAL: \$ 279,000

JUSTIFICATION

Reflects a transfer of funds from CEO PFU to the Executive Office to support the Property Tax Agent Registration and Enforcement Program.

AUTHORIZED SIGNATURE Celia Zavala

BOARD OF SUPERVISOR'S APPROVAL (AS REQUESTED/REVISED)

REFERRED TO THE CHIEF EXECUTIVE OFFICER FOR ---

- ACTION
- RECOMMENDATION

- APPROVED AS REQUESTED
- APPROVED AS REVISED

AUDITOR-CONTROLLER

BY Karin Strikuna

CHIEF EXECUTIVE OFFICER

BY Matthew McDi

B.A. NO. 067

Jan 23 2013

January 23, 2013

**RULES RELATIVE TO
COUNTY OF LOS ANGELES
TAX AGENT ORDINANCE
CHAPTER 2.165 OF THE COUNTY CODE**

Section 1.0 Definitions

1.1 Contribution shall have the meaning set forth in Government Code section 82015, except that as used in Chapter 2.165 of the Los Angeles County Code, contribution shall also include a loan or an extension of credit for a period of more than 30 days, other than loans or extensions of credit from financial institutions which are given in the regular course of business upon terms and conditions generally available to other customers of that financial institution.

1.2 County official means: the Assessor; the Treasurer and Tax Collector; the Auditor-Controller; an Assessment Appeals Board member; an Assessment Hearing Officer; and any other County employee within the Office of the Assessor, Treasurer and Tax Collector, or Auditor-Controller whose duties are not primarily clerical or manual.

1.3 Gift shall be defined as set forth in the Political Reform Act, Government Code section 81000 et seq., and the regulations adopted thereunder; except that the exclusion for campaign contributions shall be defined and governed as set forth in Chapter 2.165 of the Los Angeles County Code.

1.4 Influencing official action means representing a taxpayer as an agent in connection with any matter before any County official, by promoting, supporting, influencing, seeking modification of, opposing or seeking delay of any official action, as described in Section 1.5 of these Rules, by any means.

1.5 Official action means: locating all taxable property in the County; identifying ownership; establishing a taxable value for all property subject to property taxation, including the initial value, declines in value, corrections to values and any other changes in the taxable value set; completing an assessment roll showing the assessed values of all property; applying all legal exemptions to assessments; issuing refunds; and deciding all property assessment disputes between taxpayers and a County official.

1.6 Public official and public employee means any government official or employee of any state or local government agency.

1.7 Tax Agent means any individual who is employed, is under contract, or otherwise receives compensation to communicate directly, or through agents, employees or subcontractors, with any County official for the purpose of influencing official action. A tax agent shall not include:

A. An elected or appointed public official or public employee when acting in his or her official capacity; or

- B. A person representing any of the following:
1. Himself or herself;
 2. An immediate family member; or
 3. An entity of which the person is a partner, officer, or owner of 10 percent or more of the value of the entity.

Section 2.0 Registration

2.1 Registration. Each tax agent, within 30 days after July 1, 2013, or within 30 days of first becoming a tax agent, shall file with the Executive Officer of the Board of Supervisors (Executive Officer) a registration containing the following information, or such different or additional information as determined by the Executive Office:

1. The tax agent's full name, business address, business telephone number and business email address (if applicable);
2. Name of tax agent's employing tax agent firm (if applicable); and
3. A statement that the tax agent has read and understands the duties and prohibitions contained in Section 4.0 and 5.0 of these Rules.

The online registration forms submitted to the Executive Officer shall be accompanied by payment of the appropriate fee or fees as provided in Section 6.0 of these Rules.

2.2 Annual Renewal of Registration.

- A. Every tax agent shall be issued a tax agent registration number.
- B. Beginning July 1, 2013, no tax agent shall represent tax payers before a County official without first being registered as evidenced by a current tax agent registration number.
- C. A tax agent who is registered pursuant to Section 2.0 of these Rules, shall retain that status through the next June 30th, unless and until that person terminates the status as provided by Section 2.3 of these Rules. Thereafter, each tax agent shall be required to renew the registration on an annual basis, and shall pay an annual registration fee to the Executive Officer, as provided in Section 6.0 of these Rules, on or before the 10th day of July of the year of renewal.
- D. A person may not register or provide services as a tax agent if that person:
1. Has been convicted of any criminal offense under state or federal tax laws;
 2. Has been convicted of any other criminal offense involving perjury, fraud, breach of trust, or moral turpitude; or

3. Has been disbarred or suspended from practice as an attorney, certified public accountant, public accountant, or actuary by any duly constituted authority of any state, territory, or possession of the United States, including a commonwealth, or the District of Columbia, any court of record, or any agency, body, or board.

2.3 Registration amendments and terminations

A. Within 30 days of any change in any of the registration information reported pursuant to Section 2.0 of these Rules, and before any attempt to influence official action on behalf of any previously unreported person or entity occurs, a tax agent shall file with the Executive Officer a revised registration.

B. When a tax agent ceases all activities related to influencing official action, this fact shall be so indicated in the last semi-annual report filed pursuant to Section 3.0 of these Rules.

C. It shall be a violation of Chapter 2.165 of the Los Angeles County Code for any person to act as a tax agent if that tax agent's registration has been suspended or that tax agent has been deregistered.

Section 3.0 Semi-Annual Reports

A. Beginning on January 1, 2014, and no later than the 31st of every July and January thereafter, the tax agent shall file with the Executive Officer a report of all campaign contributions made by the tax agent to any elected official or candidate for elected office in any jurisdiction within Los Angeles County, other than the Assessor or candidate for Assessor. Campaign contributions by tax agents to the Assessor or any candidate for Assessor are prohibited by Chapter 2.190 of the Los Angeles Code.

B. The Executive Officer shall provide a report listing all tax agents semi-annually to the Registrar-Recorder electronically to help facilitate the enforcement of compliance with Chapter 2.190 of the Los Angeles Code. Said reports shall be provided beginning February 1, 2014, and no later than the end of every month of August and February thereafter.

Section 4.0 Duties of Tax Agents

A. Every tax agent shall have an affirmative duty to comply with all applicable state and local laws, regulations and rules pertaining to property taxes including the California Revenue and Taxation Code, State Board of Equalization Property Tax Rules, and Rules of the Assessment Appeals Board.

B. The existence of a dispute over fees with a taxpayer does not relieve the agent of his or her responsibilities under this section.

Section 5.0 General Prohibitions

- A. No tax agent shall engage in any of the following activities:
1. Use, or participate in the use of, any public communication or private solicitation containing false, misleading, fraudulent or deceptive representations, or intimate that the tax agent is able to improperly obtain special consideration or action from the County or any County official.
 2. Act as, attempt to act as, or claim to be, the tax agent of a taxpayer, or represent a taxpayer before the County or any County official, without the authorization of that taxpayer.
 3. Willfully assist, counsel, or encourage a taxpayer to violate any federal, state, or local tax law, or knowingly counsel or suggest to a taxpayer an illegal plan to evade federal, state, or local taxes or the payment thereof.
 4. Violate sections 17533.6 or 17537.9 of the Business and Professions Code.
 5. Knowingly aid and abet another person to practice as a tax agent before the County or a County official during a period of suspension, deregistration, or ineligibility of such other person to lawfully act as a tax agent.
 6. Knowingly engage in any false or misleading conduct, practice or deception, or knowingly provide or rely upon false, inaccurate, deceitful or misleading information, or knowingly fail to prepare, execute, or submit required documentation or information which lawfully must be revealed with respect to any matter, decision, administrative action or proceeding before the County or any County official.
 7. Directly or indirectly attempt to influence, or offer or agree to attempt to influence, the official action of any County official by the use of threats, false accusations, duress, or coercion, by the offer of any special inducement or promise of an advantage or by the bestowing of any gift, campaign contribution, favor, or thing of value.
 8. Do anything with the purpose of placing any County official under personal obligation to the tax agent or another.
 9. Represent, either directly or indirectly, that the tax agent can control the official action of any County official.

10. No person who is registered under Section 2.0 as a tax agent, or who is required to be registered under this section, or who has been so registered at any time in the previous 12 months shall make any contribution to the Assessor or candidate for Assessor consistent with Chapter 2.190 of the Los Angeles County Code.

11. No tax agent shall make to a County official a gift or gifts of any monetary value. No tax agent shall act as an agent or intermediary in the making of any such gift or arrange for the making of any such gift by any other person.

B. No County official shall knowingly receive from a registered tax agent a gift or gifts of any monetary value.

Section 6.0 Fees

A. Each tax agent shall pay a filing fee when filing or renewing a registration pursuant to Section 2.0 of these Rules, according to the following fee schedule:

Initial Registration	\$250*	*The annual registration fee will be prorated to \$125, if the tax agent registers after January 1 of any calendar year.
Annual Renewal of Registration	\$250	

Section 7.0 Enforcement

A. If it is determined by the Executive Officer that any tax agent acting on behalf of the taxpayer fails to comply with the provisions of Chapter 2.165 of the Los Angeles County Code and these Rules, the Executive Officer shall send the tax agent and the taxpayer(s) whom the tax agent represents a notice of the tax agent's alleged non-compliance.

B. Any person may file a complaint with the Executive Officer that any tax agent has violated any provision of Chapter 2.165 of the Los Angeles County Code and these Rules.

C. For any violation of Chapter 2.165 of the Los Angeles County Code and these Rules, the Executive Officer shall have the discretion to pursue administrative fines or noncompliance fees issued pursuant to the provisions of Chapter 1.25 of Los Angeles County Code. The Executive Officer shall be designated as the enforcement officer for determination and imposition of the administrative fines and noncompliance fees to be issued and for providing representation, either directly or in conjunction with other County departments,

on behalf of the County before the administrative hearing officer as provided for in Chapter 1.25 of the Los Angeles County Code.

D. Notwithstanding the provisions of subsection C above, no administrative fine or noncompliance fees shall be issued if a violation of Chapter 2.165 of the Los Angeles County Code and these Rules is cured within thirty (30) days of the date in which the tax agent receives notice of the alleged violation from the Executive Officer.

E. All noncompliant tax agents shall be listed on the Executive Officer's website until such time as the tax agent's violation is cured.



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

JOHN F. KRATTLI
County Counsel

January 3, 2013

TELEPHONE
(213) 974-1801
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(213) 626-7446
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(213) 633-0901

Agenda No. 17
11/07/12

TO: SUPERVISOR MARK RIDLEY-THOMAS, Chairman
SUPERVISOR GLORIA MOLINA
SUPERVISOR ZEV YAROSLAVSKY
SUPERVISOR DON KNABE
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: JOHN F. KRATTLI *JFK*
County Counsel

SACHI A. HAMAI *Sachi A. Hamai*
Executive Officer, Board of Supervisors

DEAN C. LOGAN *Dean C. Logan*
Registrar-Recorder/County Clerk

RE: **County Tax Agent Registration Ordinance**

Purpose of the Memorandum

This memorandum is to provide an update on the proposed ordinance requiring tax agent registration which we prepared at your instruction. The ordinance was initially presented to your Board at your November 7, 2012, meeting and it was referred back at that time for further review and modifications. The revised ordinance will be presented to your Board at your January 22, 2013, Board meeting.

Summary

On August 28, 2012, your Board directed the Office of the County Counsel and the Executive Office to develop a registration process for tax agents who have business before the Assessor, Assessor's staff, Assessment Appeals Board, and Assessment Hearing Officers. In this regard, our offices drafted a tax agent registration ordinance that would require registration and reporting to ensure transparency. The tax agent registration ordinance adds Chapter 2.165 to the Los Angeles County Code which requires tax agents to annually register and pay a registration fee.

At your November 7, 2012 Board meeting, the initially drafted ordinance was referred back to our departments for further review and modification, based in part on discussions with the tax agent community and a further review of the existing requirements imposed on tax agents under State law.

Since November 7, 2012, the proposed ordinance has been further revised in five ways: 1) the ordinance now requires tax agents to submit semi-annual, rather than quarterly reports identifying campaign contributions to any elected official or candidate; 2) the ordinance will be enforced pursuant to existing Chapter 1.25 of the Los Angeles County Code which already provides administrative fine and noncompliance fee remedies for enforcing the provisions of the Code; 3) duplicative duties and prohibitions were eliminated; 4) the definition of County official was modified to include the Auditor-Controller and the Treasurer and Tax Collector; and 5) enrolled agents (individuals enrolled as agents to practice before the Internal Revenue Service) are now included in the definition of tax agent.

Lastly, the Executive Office has also revised its estimates of the cost impact to its department, as well as the staffing and office space needs to implement the tax agent registration process.

Tax Agent Registration Ordinance

As requested by your Board, our offices have worked together to develop a new ordinance that requires the annual registration of tax agents who practice in Los Angeles County on Assessment Appeals and other property assessment matters. We have made revisions to the initially drafted ordinance to provide for a more streamlined process to ensure that it is efficient and cost effective. The ordinance amends Title 2 of the Los Angeles County Code by adding Chapter 2.165 which sets forth detailed registration requirements for tax agents.

Tax agents are defined as persons who are employed, under contract, or otherwise receive compensation to communicate directly, or through agents, employees, or subcontractors, with the Assessor, Assessment Appeals Board, Assessment Hearing Officers, Auditor-Controller, Treasurer and Tax Collector, or any other non-clerical County employee within the Office of the Assessor, Auditor-Controller, or Treasurer and Tax Collector for the purpose of influencing official action. Enrolled agents, as described above, are now included, along with attorneys and corporate in-house employees, within the definition of tax agent under the ordinance.

The ordinance requires semi-annual reports of all campaign contributions made by a tax agent to any elected official or candidate for elected office in any jurisdiction within Los Angeles County, *other than* the Assessor or candidate for Assessor.¹ The ordinance that was originally submitted to your Board required this information to be reported quarterly along with the identities of taxpayers whom the tax agent is authorized to advocate, and the Assessor's Identification Numbers ("AINs") of the properties for which the tax agent is authorized to render services in connection with Assessment Appeals and other assessment matters. However, taxpayer identities and property AINs can be gathered from the Assessment Appeals Division and/or the Office of the Assessor. Thus, this additional reporting was not deemed necessary and the requirement for it has been removed from the proposed ordinance.

The ordinance also requires every tax agent to comply with all applicable State and local laws. In this regard, the original ordinance that was submitted to your Board required tax agents to perform certain duties, such as using due diligence in representations, promptly submitting information upon request of public officials, not interfering with County officials to obtain records, and promptly returning records of the taxpayer. Upon further consideration, we determined that these duties were duplicative of requirements already mandated by California Revenue and Taxation Code sections 441, 461, 462, and 468. Accordingly, these duties were removed from the proposed ordinance.

Additionally, the ordinance enforcement provisions were streamlined by utilizing the existing enforcement provisions of Chapter 1.25 of the Los Angeles County Code which already provide for the imposition of administrative fines, noncompliance fees, and administrative hearing procedures. The ordinance was also revised to be more concise by condensing duplicative prohibitions.

Finally, the ordinance is consistent with the campaign contribution ban set forth in the recent amendment to Chapter 2.190 and continues to exempt from the registration process persons representing: 1) themselves; 2) an immediate family member; or 3) an entity of which the person is a partner, officer, or owner of ten percent or more of the value of the entity.

The proposed effective date of the registration requirement is July 1, 2013, which coincides with the beginning of the Assessment Appeals filing period. This will allow the Executive Office sufficient time to hire staff and

¹ Campaign contributions by tax agents to the Assessor or any candidate for Assessor are already prohibited by a separate ordinance your Board adopted in November amending Chapter 2.190 of the County Code.

complete computer system enhancements. This effective date will also allow other departments, such as the Assessor, Treasurer and Tax Collector, and Auditor-Controller, sufficient time to revise their taxpayer notices to provide information regarding the new tax agent registration requirements.

As a result of the revisions to the ordinance, the ordinance now establishes an annual registration fee of \$250. Under Proposition 26,² any fee enacted by State or local government is deemed a tax, unless the fee qualifies for a specific exception. This tax agent registration fee qualifies under the "regulatory exception," a charge imposed for reasonable regulatory costs relating to issuing licenses or permits, investigations, inspections, audits, and related enforcement activities, which allows the fee to be imposed without voter approval. The \$250 fee does not exceed the reasonable costs of the County's implementation and enforcement of the tax agent registration program. In addition, all fee payers directly benefit from the implementation by receiving a registration authorizing them to conduct business before the County, as well as enforcement against those who practice without a registration.

Impact on Executive Office

The Executive Office has conducted a new cost study and determined the anticipated costs of the tax agent registration process, in terms of staffing and ongoing costs, will be \$431,000 annually. As indicated above, the Executive Office expects that these costs will be offset by the annual \$250 tax agent registration fees.

The Executive Office plans to implement the tax agent registration program within the Assessment Appeals Division which currently interacts with the tax agents and other County departments responsible for the local property tax system. The tax agent registration program will involve identifying tax agents, processing registrations, posting online reports of the tax agents who represent various taxpayers throughout the County, and online posting of the names of agents who are not in compliance with the ordinance. In addition, the Assessment Appeals Board Division will be responsible for receiving the tax agents' semi-annual campaign activity reports, and the Registrar-Recorder/County Clerk will continue to be responsible for publishing the semi-annual tax agents' campaign activity reports.

² Proposition 26, approved by the voters on November 2, 2010, amends article XIII A and C of the California Constitution. Under Proposition 26, any "fee" enacted by State or local government, including the County, is deemed a "tax" unless it falls within one of seven exceptions.

There are approximately 1,725 individuals that would meet the definition of tax agent under the proposed ordinance; however, given the above revisions to the ordinance, the Executive Office is now requesting only four additional positions to provide technical, administrative, analytical, and clerical functions. The number and levels of the requested positions are necessary for both the administration and enforcement of the program, in addition to providing efficient interaction with the tax agents and other County departments to ensure taxpayers can effectively present their cases.

The program is expected to cost approximately \$279,000 during the first six months, and the Executive Office will be asking for general funds to cover this portion of the costs. A separate Board letter from the Executive Office confirming the appropriation authority and ordinance positions will be filed with your Board for review and approval at the same time as the public hearing on the ordinance's proposed registration fee, should your Board decide to proceed with this ordinance.

If you have questions concerning this matter, please contact County Counsel John F. Krattli, Executive Officer Sachi A. Hamai, or Registrar-Recorder/County Clerk Dean C. Logan.

JFK:DRH:plp

c: William T Fujioka
Chief Executive Officer

Santos H. Kreimann
Chief Deputy Assessor

Wendy L. Watanabe
Auditor-Controller

Mark J. Saladino
Treasurer and Tax Collector