



STATE BOARD OF EQUALIZATION

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Executive Director

No. 98/07

January 9, 1998

TO COUNTY ASSESSORS,
COUNTY COUNSELS,
ASSESSMENT APPEALS BOARDS,
AND OTHER INTERESTED PARTIES:

NOTICE OF PROPOSED REGULATORY ACTION
BY THE
STATE BOARD OF EQUALIZATION

AMEND PROPERTY TAX RULE 463 - NEWLY CONSTRUCTED PROPERTY
PUBLIC HEARING: WEDNESDAY, FEBRUARY 25, 1998, AT 1:30 P.M.

NOTICE IS HEREBY GIVEN:

The State Board of Equalization, pursuant to the authority vested in the Board by Section 15606 (c) of the Government Code proposes to amend Regulation 463 - Newly Constructed Property in Title 18, Division 1 of the California Code of Regulations, relating to property taxes. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on February 25, 1998. Any person interested may present statements or arguments orally or in writing at that time and place. Written statements or arguments will be considered by the Board if received by February 25, 1998.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

An amendment to Rule 463 is proposed; the amendment deletes provisions regarding property newly constructed after a disaster. These provisions do not reflect more recent statutory provisions that impact the reassessment procedures depending on whether a county board of supervisors has or has not adopted a disaster relief ordinance pursuant to Revenue and Taxation Code Section 170.

The express terms of the proposed action, written in plain English, are available from the agency contact person named in this notice.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment to Rule 463 does not impose a mandate on local agencies or school districts. Further, the Board has

determined that the amendments will result in no additional direct or indirect costs to any State agency or any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and that there are no other non-discretionary costs or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code Section 11346.53(c), the Board of Equalization finds that the amendment of Rule 463 will not have a significant adverse economic impact on business.

The amendment of this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment of the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation will not affect small business.

ADVERSE ECONOMIC IMPACT ON PRIVATE PERSONS/BUSINESSES

There will be no adverse economic impact on private businesses or persons.

FEDERAL REGULATIONS

Rule 463 has no comparable Federal regulation.

AUTHORITY

Government Code Section 15606, subdivision (c).

REFERENCE

Article XIII A, Sections 1,2, California Constitution.

CONTACT

Questions regarding the content of the proposed regulation should be directed to:
Ms. Janet Saunders, Tax Counsel - Property Taxes, at P.O. Box 942879, 450 N Street, MIC: 82,
Sacramento, CA 94279-0082. Telephone: (916) 324-2642 FAX (916) 323-3387.

Written comments for the Board's consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, and P. O. Box 942879, 450 N Street, MIC: 80, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF STATEMENT OF REASONS AND OF TEXT OF PROPOSED REGULATIONS

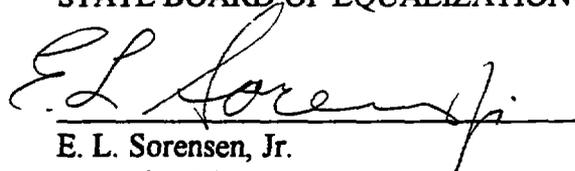
The Board has prepared a statement of reasons and underscored version of the proposed amendment. Those documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, at P. O. Box 942879, 450 N Street, MIC: 80, Sacramento, CA 94279-0080.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified rule will be available to the public from Ms. Stumpf. The State Board of Equalization will consider written comments on the modified rule for fifteen days after the date on which the modified regulation is made available to the public.

Dated: December 19, 1997

STATE BOARD OF EQUALIZATION



E. L. Sorensen, Jr.
Executive Director

Rule 463.

NEWLY CONSTRUCTED PROPERTY.

(a) When real property, or a portion thereof, is newly constructed after the 1975 lien date, the assessor shall ascertain the full value of such "newly constructed property" as of the date of completion. This will establish a new base year full value for *only* that portion of the property which is newly constructed, whether it is an addition or alteration. The taxable value on the total property shall be determined by adding the full value of new construction to the taxable value of preexisting property reduced to account for the taxable value of property removed during construction. The full value of new construction is only that value resulting from the new construction and does not include value increases not associated with the new construction.

(b) "Newly constructed" or "new construction" means and includes:

(1) Any substantial addition to land or improvements, including fixtures, such as adding land fill, retaining walls, curbs, gutters or sewers to land or constructing a new building or swimming pool or changing an existing improvement so as to add horizontally or vertically to its square footage or to incorporate an additional fixture, as that term is defined in this section.

(2) Any substantial physical alteration of land which constitutes a major rehabilitation of the land or results in a change in the way the property is used. Examples of alterations to land to be considered new construction are: site development of rural land for the purpose of establishing a residential subdivision.; altering rolling, dry grazing land to level irrigated crop land; or preparing a vacant lot for use as a parking facility.

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~~Site development of rural land for the purpose of establishing a residential subdivision.~~

~~Altering rolling, dry grazing land to level irrigated crop land.~~

~~Preparing a vacant lot for use as a parking facility.~~

(A) In any instance in which an alteration is substantial enough to require reappraisal, only the value of the alteration shall be added to the base year value of the pre-existing land or improvements. Increases in land value caused by appreciation or a zoning change rather than new construction shall not be enrolled, for example:

1. Land value 1975	=	\$10,000
2. Land value 1978	=	\$20,000
3. Value of alteration 1978	=	\$5,000
4. Value of structure added 1978	=	\$75,000
1979 roll value (1+3+4)	=	\$90,000 (must be adjusted to reflect appropriate indexing)

(B) Alterations to land which do not constitute a major rehabilitation or which do not result in a change in the way the property is used shall not result in reappraisal.

(3) Any physical alteration of any improvement which converts the improvement or any portion thereof to the substantial equivalent of a new structure or portion thereof or changes the way in which the portion of the structure that had been altered is used, e.g., physical alterations to an old structure to make it the substantial equivalent of a new building without any change in the way it is used or alterations to a warehouse that makes it usable as a retail store or a restaurant. Only, the value, not necessarily the cost, of the alteration shall be added to the appropriately indexed base year value of the pre-existing structure.

(4) Excluded from alterations that qualify as "newly constructed" is construction or reconstruction performed for the purpose of normal maintenance and repair, e.g., routine annual preparation of agricultural land or interior or exterior painting, replacement of roof coverings or the addition of aluminum siding to improvements or the replacement of worn machine parts.

(5) Any substantial physical rehabilitation, renovation or modernization of any fixture which converts it to the substantial equivalent of a new fixture or any substitution of a new fixture. Substantial equivalency shall be ascertained by comparing the productive capacity, normally expressed in units per hour, of the rehabilitated fixture to its original productive capacity.

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(c) For purposes of this ~~regulation~~section, "fixture" is defined as an improvement whose use or purpose directly applies to or augments the process or function of a trade, industry, or profession.

(d) New construction in progress on the lien date shall be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its full value.

(e) For purposes of this ~~regulation~~section, the date of completion is the date the property or portion thereof is available for use. In determining whether the real property or a portion thereof is available for use, consideration shall be given to the date of the final inspection by the appropriate governmental official, or, in the absence of such inspection, the date the prime contractor fulfilled all of his contract obligations, or in the case of fixtures, the date of the completion of testing of machinery and equipment.

~~(f) Newly constructed property does not include real property which is timely reconstructed after a disaster where the full value of such real property, as reconstructed, is substantially equivalent to its full value prior to the disaster. If the values are not substantially equivalent, the assessor shall lien date following restoration:~~

- ~~(1) Enroll the restored property at its former taxable value plus or minus the appropriate inflation adjustment, or~~
- ~~(2) Enroll the current market value of the restored property if the current market value is less than the value found in Item 1 above, or~~
- ~~(3) Enroll the value in Item 1 above plus the market value of any newly constructed property if it is determined that new construction has occurred.~~

For purposes of this subsection only, newly constructed property does not include any land, improvement or fixture that is restored, reconstructed or repaired in a timely manner following a disaster and which is substantially equivalent in size, use and quality to that which existed prior to the disaster.

(g) For property under reconstruction as a result of disaster which changes ownership prior to the completion of reconstruction or restoration, the value of the land and existing improvements shall be determined as of the date of the change in ownership but the value of any reconstruction or restoration which occurs following the transfer shall be determined as of the date of completion in accordance with the provisions applicable to new construction but without regard to the “substantially equivalent” test normally applicable to property reconstructed following a disaster.

Authority: Section 15606, Government Code.

Reference: Article XIII A, Sections 1, 2, California Constitution.