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No. 2000/012

TO COUNTY ASSESSORS:

REVENUE AND TAXATION CODE SECTION 69.4:
PROPERTY TAX RELIEF FOR CONTAMINATED PROPERTY (PROPOSITION 1)

In November 1998, Proposition 1 was approved by the voters to allow owners of qualified contaminated property to transfer the property's base year value to a replacement property acquired or constructed on or after January 1, 1995, or to have excluded from reassessment certain property repairs performed on or after January 1, 1995. Effective January 1, 2000, Chapter 941 of the Statutes of 1999 (SB 1231, Senate Committee on Revenue and Taxation) adds section 69.4 to the Revenue and Taxation Code, implementing these provisions. Section 69.4 reads as follows:

- (a) Notwithstanding any other provision of law, pursuant to the authority of subdivision (i) of Section 2 of Article XIII A of the California Constitution, the base year value of qualified contaminated property may be transferred to a replacement property that is acquired or newly constructed as a replacement for the contaminated property, pursuant to subparagraph (A) of paragraph 1 of that subdivision, or if the remediation of the contamination requires the repair or replacement of contaminated property, that repair or replacement shall not be considered "new construction," pursuant to subparagraph (B) of that subdivision.
- (b) The base year value of the original property shall be the base year value of the original property as determined in accordance with Section 110.1, with the inflation factor adjustments permitted by subdivision (f) of Section 110.1. The base year value of the original property shall also include any inflation factor adjustments permitted by subdivision (f) of Section 110.1 up to the date the replacement property is acquired or newly constructed, regardless of whether the claimant continued to own the original property during this entire period. The base year or years used to compute the base year value of the original property shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

The constitutional amendment provides that owners of residential and nonresidential properties may retain their original base year values if all of the following conditions exist:

1. The property, if residential, is rendered uninhabitable, and if nonresidential, is rendered unusable, as defined, due to an environmental problem or problems.
2. The property is located on a site that a state or federal government agency has designated as a toxic or environmental hazard or as an environmental cleanup site.
3. The property had structures on it that were substantially damaged or destroyed as a result of the environmental cleanup activities.
4. The lead state or federal agency has stipulated that the property was not rendered uninhabitable or unusable by any act or omission of the owner of the property.
5. The owner did not know the property was contaminated at the time the property was acquired or constructed.

TRANSFER OF BASE YEAR VALUE

Where property is uninhabitable, in the case of residential property, or unusable, in the case of nonresidential property, due to environmental problems, section 69.4 will allow the transfer of the property's base year value to replacement property under the following conditions:

- The qualified contaminated property is sold or otherwise transferred.
- The replacement property is acquired within five years *after* the date of sale or transfer of the qualified contaminated property. Any property acquired before the date of sale or transfer of the contaminated property will not qualify as a replacement property under section 69.4.
- The full cash value of the replacement property as of the date of purchase is *equal to or less* than the full cash value of the qualified contaminated property as if that property were not contaminated as of the date of sale or transfer. Please note that for the purpose of comparing values, unlike sections 69.3 and 69.5, section 69.4 does *not* currently provide for any inflationary increases in the allowable full cash value for replacement properties purchased after the sale or transfer of the contaminated property.
- If the replacement property is located in a *different* county than the qualified contaminated property, the board of supervisors of the county in which the replacement property is located must have passed a resolution authorizing the county to accept such intercounty base year value transfers.

If the replacement property qualifies, the value to be transferred is the factored base year value of the qualified contaminated property, not its reduced assessed value based upon any loss in value due to the contamination.

INTERCOUNTY BASE YEAR VALUE TRANSFERS

We are not aware of any counties that have passed resolutions accepting intercounty base year value transfers for Proposition 1. We will notify you if we become aware of any counties that adopt such resolutions. Continued cooperation from the counties in notifying our Real Property Technical Services Unit when an ordinance is adopted or repealed will be greatly appreciated.

NEW CONSTRUCTION

If the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure, then the repair or reconstruction may be excluded from the definition of "new construction," provided that the reconstruction is similar in size, utility, and function to the original structure. This applies to repairs performed on or after January 1, 1995. If the new construction exclusion is granted, then the base year value of the qualified contaminated property cannot be transferred to a replacement property.

APPLICATION

We recommend that any taxpayers wishing to take advantage of this property tax relief notify the assessor *in writing* whether they wish to use the new construction exclusion or transfer the base year value. We will inform you of any changes that occur regarding the implementation of Proposition 1.

If you have any questions, please contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,

/s/ Richard C. Johnson

Richard C. Johnson
Deputy Director
Property Taxes Department

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