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No. 2013/042

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TO COUNTY ASSESSORS:

**SOLAR ENERGY SYSTEMS:  
 CONSTRUCTION IN PROGRESS AND THE SUNSET DATE**

In 1980, voters approved Proposition 7 (SCA 28) which amended section 2(c) of article XIII A of the California Constitution and gave the Legislature the authority to exclude construction of active solar energy systems from property tax assessment. This exclusion is incorporated in Revenue and Taxation Code<sup>1</sup> section 73 which provides that the term *newly constructed* does not include the construction or addition of any active solar energy system for property tax purposes.

An *active solar energy system* is defined as a system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.<sup>2</sup> Section 73 states in:

- Subdivision (g) that this section applies to property tax lien dates for the 1999-2000 fiscal year to the 2015-16 fiscal year, inclusive.
- Subdivision (i)(1) that this section shall remain in effect only until January 1, 2017, and as of that date is repealed.
- Subdivision (i)(2) that active energy solar systems that qualify for an exclusion under this section prior to January 1, 2017 shall continue to be excluded on and after January 1, 2017 until there is a subsequent change in ownership.

Therefore, eligible construction completed on an active solar energy system before January 1, 2017 will remain excluded from the definition of new construction under section 73 until there is a subsequent change in ownership of the facility. *Eligible new construction* includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. It includes only equipment used up to, but not including, the stage of conveyance or use of the electricity.

All construction or addition of any active solar energy system on or after January 1, 2017 will be considered assessable new construction.

<sup>1</sup> All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

<sup>2</sup> For further information on solar energy, see Letters To Assessors 2012/053 for the *Guidelines for Active Solar Energy Systems New Construction Exclusion*.

The following examples demonstrate situations involving the sunset date for the solar exclusion and construction in progress for active solar energy systems.

***Example 1***

Construction of an active solar energy system begins in September 2012, but is not completed until June 2018. What is the property tax status of the exclusion for the construction of the active solar energy system?

The construction in progress prior to January 1, 2017, the sunset date for the section 73 exclusion, is excluded until such time as there is a subsequent change in ownership or change in control of the solar facility. All construction or addition completed on or after January 1, 2017 is assessable new construction. The assessor should establish a construction-in-progress value for the January 1, 2018 lien date for any construction completed or added between January 1, 2017 and January 1, 2018. On the date of completion of the solar facility in June 2018, the assessor will establish a base year value, pursuant to the provisions of section 71, for the completed facility, absent the value of any excluded construction that occurred prior to January 1, 2017.

***Example 2***

If construction of a solar project is completed in phases and the individual phases are operational upon completion, what is the status of the exclusion for eligible construction of the active solar energy system?

For a solar project being completed in phases, the completed operational phases that qualify for the new construction exclusion prior to January 1, 2017 would remain excluded from the definition of assessable new construction until a subsequent change in ownership or change in control of the facility. The assessor would establish a base year value for each phase upon completion, or a construction-in-progress value for a phase not complete on a lien date, absent the value of any excluded new construction. Any additional phases constructed or added on or after January 1, 2017 will be considered assessable new construction, and the assessor would establish a base year value pursuant to the provisions of section 71.

***Example 3***

A company begins construction of an active solar energy system in September 2014 with a projected completion date of September 2016. On the January 1, 2015 and January 1, 2016 lien dates, the assessor excluded the value of all eligible construction for the facility. In March 2016, the company decides to forego the plan to use solar energy and converts the facility to a standard electrical generating facility and completes the project. What is the status of the exclusion for new construction for the facility?

Section 73(b)(1) provides that the exclusion applies to construction of an active solar energy system that when completed uses that system to produce electricity. Since this facility will not use solar devices to produce electricity when completed, none of the new

construction would qualify for the exclusion. When the facility is completed, a base year value for the entire facility should be established pursuant to section 71.

If you have any questions regarding active solar energy systems, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau  
Deputy Director  
Property and Special Taxes Department

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