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No. 2024/003

January 26, 2024

TO COUNTY ASSESSORS:

DISASTER RELIEF TIME EXTENSION

Effective October 8, 2023, [Assembly Bill 556](#) (Stats. 2023, ch. 443) amends Revenue and Taxation Code (RTC) section 69, and [Assembly Bill 1500](#) (Stats. 2023, ch. 583) amends RTC section 70.5. Both amendments extend the time in which owners of property substantially damaged or destroyed in specified Governor-proclaimed disasters have to acquire or complete construction of a replacement property.

California law provides two types of property tax relief for owners of property that has been substantially damaged or destroyed by a disaster for which the Governor proclaimed a state of emergency. These two types of property tax relief are (1) a base year value transfer to a replacement property, or (2) a new construction exclusion. Existing law provides for three different types of disaster base year value transfers¹ and two alternative disaster new construction exclusions. In 2023, legislation amended one of the base year value transfer provisions and the new construction exclusion specifically for Governor-proclaimed disasters.

Intracounty Base Year Value Transfer

RTC section 69 provides that the base year value of property that is substantially damaged or destroyed by a disaster, as proclaimed by the Governor, may be transferred to a comparable property within the same county, which is acquired or newly constructed within five years after the disaster.

Assembly Bill 556 amends section 69 to extend the five-year period to eight years for qualified property. "Qualified property" means property that was substantially damaged or destroyed by the 2018 Camp Fire during the period beginning November 1, 2018 through November 20, 2018.

For property substantially damaged or destroyed by any other disaster for which the Governor proclaimed a state of emergency, those owners are still limited to the five-year period to purchase or newly construct a replacement structure on a parcel within the same county, other than the one where the damaged or destroyed structure stood.

¹ See Letter To Assessors No. [2021/026](#) for a discussion of these three base year value transfers for Governor-proclaimed disasters.

New Construction Exclusion

RTC section 70.5 provides that the base year value of property that is substantially damaged or destroyed by a disaster, as proclaimed by the Governor, may be applied to a replacement structure reconstructed on the site of the damaged or destroyed structure within five years after the disaster as long as the reconstructed property is comparable to the substantially damaged or destroyed property.

Assembly Bill 1500 amends RTC section 70.5 to allow owners of qualified property an additional three years, extending the time allowed from five years to eight years, to reconstruct comparable improvements on the same site as the qualified property. "Qualified property" means property that was substantially damaged or destroyed by the 2018 Woolsey Fire or the 2018 Camp Fire during the period beginning November 1, 2018 through November 30, 2018.

For property substantially damaged or destroyed by any other disaster for which the Governor proclaimed a state of emergency, those owners are still limited to the five-year period to reconstruct a comparable replacement structure on the site of the damaged or destroyed structure.

A replacement improvement is considered comparable if it is similar in size, utility, and function to the substantially damaged or destroyed property. Size and utility are associated with value, not physical characteristics. Property is similar in size and utility if the market value of the newly constructed improvement does not exceed 120 percent of the full cash value of the damaged or destroyed improvement in its pre-damaged condition.²

Please note that if the property owner utilizes the new construction exclusion under section 70.5, the base year value transfer under section 69 is not available. Conversely, if a property owner utilizes a disaster base year value transfer, the new construction exclusion is no longer available.

A copy of amended RTC sections 69 and 70.5, with changes noted in strikeout/italic format, are enclosed. If you have any questions, please contact our County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:rm
Enclosure

² For more detailed information, please see Letter To Assessors No. [2021/004](#).

Effective October 8, 2023, section 69 of the Revenue and Taxation Code is amended to read:

69. (a) Notwithstanding any other law, pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county, which is acquired or newly constructed within five years after the disaster, including in the case of the Northridge earthquake, as a replacement for the substantially damaged or destroyed property. At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value. However, the substantially damaged or destroyed property shall retain its base year value notwithstanding the transfer authorized by this section. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base year value of the replacement property acquired shall be determined in accordance with this section.

The assessor shall use the following procedure in determining the appropriate replacement base year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base year value of the property substantially damaged or destroyed. The sum of these amounts shall become the replacement property's replacement base year value.

(3) If the full cash value of the comparable replacement property is less than the adjusted base year value of the property substantially damaged or destroyed, then that lower value shall become the replacement property's base year value.

(4) The full cash value of the property substantially damaged or destroyed shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(c) For purposes of this section:

(1) Property is substantially damaged or destroyed if either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land's or the improvement's full cash value immediately prior to the disaster. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces.

(A) Property is similar in function if the replacement property is subject to similar governmental restrictions, such as zoning.

(B) Both the size and utility of property are interrelated and associated with value. Property is similar in size and utility only to the extent that the replacement property is, or is intended to be, used in the same manner as the property substantially damaged or destroyed and its full cash value does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed.

- (i) A replacement property or any portion thereof used or intended to be used for a purpose substantially different than the use made of the property substantially damaged or destroyed shall to the extent of the dissimilar use be considered not similar in utility.
- (ii) A replacement property or portion thereof that satisfies the use requirement but has a full cash value that exceeds 120 percent of the full cash value of the property substantially damaged or destroyed shall be considered, to the extent of the excess, not similar in utility and size.

(C) To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property, or portion thereof, shall be considered to have undergone a change in ownership when the replacement property is acquired or newly constructed.

(3) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(d) (1) This section applies to any comparable replacement property acquired or newly constructed on or after July 1, 1985.

(2) The amendments made by Chapter 1053 of the Statutes of 1993 apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(3) The amendments made by Chapter 317 of the Statutes of 2006 apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after July 1, 2003, and to the determination of base year values for the 2003–04 fiscal year and fiscal years thereafter.

(e) Only the owner or owners of the property substantially damaged or destroyed, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section. Relief under this section shall be granted to an owner or owners of substantially damaged or destroyed property obtaining title to replacement property. The acquisition of an ownership interest in a legal entity, which directly or indirectly owns real property, is not an acquisition of comparable property.

(f) Notwithstanding any other law, the board of supervisors of the County of San Diego may by ordinance extend the time period specified in subdivision (a) to transfer the base year value of property that is substantially damaged or destroyed by the Cedar Fire that commenced in October 2003, as declared by the Governor, to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property by two years. This subdivision shall apply to the determination of base year values for the 2003–04 fiscal year and fiscal years thereafter.

(g) The amendments made to this section by the act adding this subdivision shall apply commencing with the lien date for the 2012–13 fiscal year.

(h) (1) Notwithstanding any other law, the time period specified in subdivision (a) to transfer the base year value of qualified property to comparable property, that is within the same county and that is acquired or newly constructed as a replacement for the qualified property, is extended by two years if the last day to transfer the base year value of the qualified property was on or after March 4, 2020, but on or before the COVID-19 emergency termination date or March 4, 2022, whichever is sooner.

(2) Notwithstanding any other law, the time period specified in subdivision (a) to transfer the base year value of qualified property to comparable property, that is within the same county and that is acquired or newly constructed as a replacement for the qualified property, is extended by two years if the qualified property was substantially damaged or destroyed on or after March 4, 2020, but on or before the COVID-19 emergency termination date or March 4, 2022, whichever is sooner.

(3) This subdivision shall apply to the determination of base year values for the 2015–16 fiscal year and fiscal years thereafter.

(4) For purposes of this subdivision, both of the following definitions apply:

(A) "COVID-19 emergency termination date" shall be the date the Governor proclaims the termination of the emergency related to the COVID-19 pandemic that was proclaimed on March 4, 2020, pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(B) "Qualified property" means property that is substantially damaged or destroyed, as described in paragraph (1) of subdivision (c), by a disaster that is proclaimed by the Governor.

(i) (1) Notwithstanding any law, the time period specified in subdivision (a) to transfer the base year value of qualified property that is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable property, that is within the same county and that is acquired or newly constructed as a replacement for the property, is extended by three years if the qualified property was substantially damaged or destroyed on or after November 1, 2018, but on or before November 20, 2018.

(2) This subdivision shall apply to the determination of base year values for the 2018–19 fiscal year and fiscal years thereafter.

(3) For purposes of this subdivision, "qualified property" means property that was substantially damaged or destroyed, as described in paragraph (1) of subdivision (c), by the 2018 Camp Fire disaster, as proclaimed by the Governor.

Effective October 8, 2023, section 70.5 of the Revenue and Taxation Code is amended to read:

70.5. (a) Notwithstanding Section 70, and pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be applied to replacement property reconstructed on the site of the damaged or destroyed property within five years after the disaster as a replacement for the substantially damaged or destroyed property if that reconstructed property is comparable to the substantially damaged or destroyed property. A person who owns substantially damaged or destroyed property that receives property tax relief under this section shall not be eligible for property tax relief provided under Section 69.

(b) (1) The replacement base year value of the reconstructed property shall be determined in accordance with this section.

(2) The assessor shall use the following procedure in determining the appropriate base year value of the reconstructed property:

(A) If the full cash value of the reconstructed property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base year value of the property substantially damaged or destroyed shall apply to the reconstructed property as its base year value.

(B) If the full cash value of the reconstructed property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base year value of the original property substantially damaged or destroyed. The sum of these amounts shall become the reconstructed property's base year value.

(C) If the full cash value of the reconstructed property is less than the adjusted base year value of the original property substantially damaged or destroyed, then that lower value shall become the reconstructed property's base year value.

(D) The full cash value of the property substantially damaged or destroyed shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(c) For purposes of this section:

(1) Property is substantially damaged or destroyed if the improvements sustain physical damage amounting to more than 50 percent of the improvements' full cash value immediately prior to the disaster.

(2) Reconstructed property shall be considered comparable to the original property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces. For purposes of this paragraph:

(A) Property is similar in function if the reconstructed property is subject to similar governmental restrictions, such as zoning.

(B) (i) Both the size and utility of property are interrelated and associated with value. Property shall be considered similar in size and utility only to the extent that the reconstructed property is, or is intended to be, used in the same manner as the original property substantially damaged or destroyed and its full cash value does not exceed 120 percent of the full cash value of the original property substantially damaged or destroyed.

- (ii) A reconstructed property or any portion of reconstructed property used or intended to be used for a purpose substantially different than the use made of the original property substantially damaged or destroyed shall to the extent of the dissimilar use be considered not similar in utility.
- (iii) A reconstructed property or any portion of reconstructed property that satisfies the use requirement but has a full cash value that exceeds 120 percent of the full cash value of the original property substantially damaged or destroyed shall be considered, to the extent of the excess, not similar in utility and size.

(C) To the extent that reconstructed property or any portion of reconstructed property is not similar in function, size, and utility, the property or portion of that property shall be considered to be newly constructed.

(3) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of that misfortune or calamity.

(d) Only the owner or owners of the property substantially damaged or destroyed, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall be eligible to receive property tax relief under this section. Relief under this section shall be granted to an owner or owners of substantially damaged or destroyed property who have reconstructed that property.

(e) *(1) Notwithstanding any law, the time period specified in subdivision (a) to apply the base year value of qualified property to replacement property reconstructed on the site of the damaged or destroyed property is extended by three years if the qualified property was substantially damaged or destroyed on or after November 1, 2018, but on or before November 30, 2018.*

(2) This subdivision shall apply to the determination of base year values for the 2018–19 fiscal year and fiscal years thereafter.

(3) For purposes of this subdivision, "qualified property" means property that was substantially damaged or destroyed, as described in paragraph (1) of subdivision (c), by the 2018 Woolsey Fire disaster or by the 2018 Camp Fire disaster, as proclaimed by the Governor.

(f) This section shall apply to real property damaged or destroyed by misfortune or calamity on or after January 1, 2017.