



STATE BOARD OF EQUALIZATION  
PROPERTY TAXES DEPARTMENT  
450 N STREET, MIC: 63 SACRAMENTO, CALIFORNIA  
(PO BOX 942879, SACRAMENTO, CA 94279-0063)  
TELEPHONE 916-445-1516  
FAX 916-323-8765

JOHAN KLEHS  
First District, Hayward

DEAN F. ANDAL  
Second District, Stockton

CLAUDE PARRISH.  
Third District, Torrance

JOHN CHIANG  
Fourth District, Los Angeles

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Controller, Sacramento

E.L. SORENSEN, JR.  
Executive Director

April 13, 1999

No. 99/23

TO COUNTY ASSESSORS:

PROPOSITION 1:  
PROPERTY TAX RELIEF FOR CONTAMINATED PROPERTY

On November 3, 1998, the voters of California approved Proposition 1, which amends section 2 of article XIII A of the California Constitution by adding subdivision (i). Upon implementation by the Legislature, this amendment will allow property tax relief in one of two forms for qualified contaminated property. Specifically, property owners will be able to choose from *either* of the following:

1. They may sell or otherwise transfer the qualified contaminated property and transfer its base year value to a replacement property of equal or lesser value. The replacement property must be acquired or newly constructed within five years *after* the sale or transfer of the qualified contaminated property. If the replacement property is located in a different county than the qualified contaminated property, then the county in which the replacement property is located must have passed a resolution accepting such base year value transfers.
2. If structures located on the qualified contaminated property are substantially damaged or destroyed in the course of the remediation of the environmental problems, the repair or replacement of such structures may be excluded from the definition of "new construction" provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

This relief will apply to replacement property that is acquired or newly constructed on or after January 1, 1995, and to property repairs performed on or after that date. The relief will be available to owners of contaminated property only where all of the following conditions apply:

- The property is rendered uninhabitable (residential real property) or unusable (nonresidential real property) due to environmental problems or the remediation of such problems.
- The owner did not know the property was contaminated at the time the property was acquired or constructed.

- The property is located on a site that a state or federal agency has designated as a toxic or environmental hazard or a an environmental cleanup site.
- The property has structures upon it which are either substantially damaged or destroyed as a result of the environmental cleanup activities.
- The lead state or federal agency has stipulated that the owner of the property did not cause the environmental problems.

Enclosed is a copy of the new subdivision (i). Please note, as indicated above, that this amendment requires the Legislature to implement its provisions. Until the Legislature passes implementing legislation, the amendment has no immediate effect. Assessors will not be able to grant this exclusion until the implementing legislation is adopted. To date, such legislation has not been introduced. We will issue another letter to assessors when the implementing legislation has been introduced and adopted.

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

Sincerely,

/s/ Richard C. Johnson

Richard C. Johnson  
Deputy Director  
Property Taxes Department

RCJ/grs

Enclosure

(i) (1) Notwithstanding any other provision of this section, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following shall apply:

(A) (i) Subject to the limitation of clause (ii), the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated and, except as otherwise provided by this clause, is located within the same county. The base year value of the qualified contaminated property may be transferred to a replacement real property located within another county if the board of supervisors of that other county has, after consultation with the affected local agencies within that county, adopted a resolution authorizing an intercounty transfer of base year value as so described.

(ii) This subparagraph applies only to replacement property that is acquired or newly constructed within five years after ownership in the qualified contaminated property is sold or otherwise transferred.

(B) In the case in which the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure

located on that property, the term "new construction" does not include the repair of a substantially damaged structure, or the construction of a structure replacing a destroyed structure on the qualified contaminated property, performed after the remediation of the environmental problems on that property, provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

(2) For purposes of this subdivision, "qualified contaminated property" means residential or nonresidential real property that is all of the following:

(A) In the case of residential real property, rendered uninhabitable, and in the case of nonresidential real property, rendered unusable, as the result of either environmental problems, in the nature of and including, but not limited to, the presence of toxic or hazardous materials, or the remediation of those environmental problems, except where the existence of the environmental problems was known to the owner, or to a related individual or entity as described in paragraph (3), at the time the real property was acquired or constructed. For purposes of this subparagraph, residential real property is "uninhabitable" if that property, as a result of health hazards caused by or associated with the environmental problems, is unfit for human habitation, and nonresidential real property is "unusable" if that property, as a result of health hazards caused by or associated with the environmental problems, is unhealthy and unsuitable for occupancy.

(B) Located on a site that has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.

(C) Real property that contains a structure or structures thereon prior to the completion of environmental cleanup activities, and that structure or structures are substantially damaged or destroyed as a result of those environmental cleanup activities.

(D) Stipulated by the lead governmental agency, with respect to the environmental problems or environmental cleanup of the real property, not to have been rendered uninhabitable or unusable, as applicable, as described in subparagraph (A), by any act or omission in which an owner of that real property participated or acquiesced.

(3) It shall be rebuttably presumed that an owner of the real property participated or acquiesced in any act or omission that rendered the real property uninhabitable or unusable, as applicable, if that owner is related to any individual or entity that committed that act or omission in any of the following ways:

(A) Is a spouse, parent, child, grandparent, grandchild, or sibling of that individual.

(B) Is a corporate parent, subsidiary, or affiliate of that entity.

(C) Is an owner of, or has control of, that entity.

(D) Is owned or controlled by that entity.

If this presumption is not overcome, the owner shall not receive the relief provided for in subparagraph (A) or (B) of paragraph (1). The presumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.