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TO COUNTY ASSESSORS:

SOLAR ENERGY PROPERTY TAX INCENTIVE

We are receiving an increasing number of calls asking about the property tax "exemption" for solar energy. This letter is to clarify California's property tax incentive for solar energy systems.

The property tax incentive for the installation of an active solar energy system is in the form of a new construction exclusion. It is not an exemption. Therefore, the installation of a qualifying solar energy system will not result in either an increase or a decrease in the assessment of the existing property.

Generally, when something of value is physically added to real property, what is added is considered "new construction" and is assessed at current market value. This value is added to the existing base year value of the real property. Revenue and Taxation Code¹ section 70(a) defines *newly constructed* and *new construction* as either (1) any addition to real property, or (2) any alteration of land or of an improvement which constitutes a major rehabilitation thereof or converts it to a different use. With respect to any new construction, the law requires the assessor to determine the added value upon completion. The value is established as the base year value for those specific improvements qualifying as new construction and is added to the property's existing base year value. Certain types of construction activity, however, are excluded from assessment as new construction. These exclusions are authorized by constitutional amendment. Consequently, while these types of improvements may increase the value of the property, because of an exclusion, the additional value of these improvements is not assessable.

In 1980, voters approved Proposition 7 (SCA 28), which amended section 2(c) of article XIII A of the California Constitution, giving the Legislature the authority to exclude the construction of active solar energy systems from property tax assessment. This exclusion is incorporated in 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.

An active solar energy system may be used for any of the following:

¹ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

- Domestic, recreational, therapeutic, or service water heating
- Space conditioning
- Production of electricity
- Process heat
- Solar mechanical energy

Such a system does not include solar swimming pool heaters, hot tub heaters, passive energy systems, or wind energy systems.

Thus, if a property owner installs an active solar energy system, the system will not be assessed. Any other improvements constructed to support the system (for example, a new patio or carport) are not included in the exclusion and will be assessed at current market value as of the lien date or date of completion of the new construction. When the property undergoes a change in ownership, however, the active solar energy system becomes assessable along with everything else on the property.

Section 73 will sunset on January 1, 2010, unless legislation is passed that extends this date. If section 73 sunsets, this will not affect any solar energy system that was previously not assessed while the exclusion was in effect. Any active solar energy system that was excluded under this section will remain excluded until the property undergoes a change in ownership and is reassessed.

For further information on this new construction exclusion, please see Letters To Assessors 2004/051 and 2005/056. If you have any questions about this exclusion, please contact our Assessment Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

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