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TO COUNTY ASSESSORS:

### **ACTIVE SOLAR ENERGY SYSTEM EXCLUSION AND SECTION 69.5 BASE YEAR VALUE TRANSFER CLAIMS**

The purpose of this letter is to discuss the interaction of the active solar energy system new construction exclusion and the Revenue and Taxation Code<sup>1</sup> section 69.5 base year value transfer provisions.

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 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.<sup>2</sup>

Section 69.5 was added in 1987 to implement Proposition 60, which amended section 2 of article XIII A of the California Constitution to authorize the Legislature to provide for the transfer of a base year value from a principal residence<sup>3</sup> to a replacement dwelling of equal or lesser value within the same county by a homeowner age 55 and over. Subsequently, section 69.5 was amended to implement Proposition 90 which authorized county boards of supervisors to adopt ordinances allowing base year value transfers between different counties; and Proposition 110, which extended these provisions to severely and permanently disabled persons of any age.

One of the provisions of section 69.5 is that the replacement dwelling must be of equal or lesser value as compared to the original property. This means that the full cash value of the replacement dwelling on the date of purchase or completion of new construction must not exceed:

1. 100 percent of the full cash value of the original property as of the date of sale, if the replacement dwelling is purchased or newly constructed *prior to* the date of sale of the original property;
2. 105 percent of the full cash value of the original property as of the date of sale, if the replacement dwelling is purchased or newly constructed *within the first year* following the date of sale of the original property; or

<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, *Guidelines for Active Solar Energy Systems New Construction Exclusion* [[www.boe.ca.gov/proptaxes/pdf/lta12053.pdf](http://www.boe.ca.gov/proptaxes/pdf/lta12053.pdf)].

<sup>3</sup> A *principal residence* is a person's true, fixed, and permanent home and principal establishment to which the owner, whenever absent, intends to return.

3. 110 percent of the full cash value of the original property as of the date of sale, if the replacement dwelling is purchased or newly constructed *within the second year* following the date of the sale of the original property.

*Full cash value* is defined as the amount of cash or its equivalent that property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other.<sup>4</sup> Since an estimate of full cash value is made as if the property was exposed for sale, the full cash value should not be reduced by the value of any excluded new construction, such as an active solar energy system, because real property being made available for sale would include all segments of the appraisal unit.

The following examples demonstrate application of the active solar energy system new construction exclusion and section 69.5 base year value transfer claims. The examples presented are transfers where the replacement property was acquired prior to the sale of the original property.

#### ***Example 1***

A taxpayer purchased a replacement dwelling for \$420,000 on December 10, 2013 from a builder. The property included an active solar energy system that the assessor determined had an attributable value of \$30,000. The taxpayer qualified for the new construction exclusion for the active solar energy system and submitted a claim form.<sup>5</sup> Subsequently, the original property was sold on January 15, 2014 for \$400,000, and the 59 year old taxpayer filed a section 69.5 claim to transfer the base year value to a replacement property.

To adjust for the active solar energy exclusion, the assessor must reduce the new base year value established as a result of the change in ownership of the replacement dwelling by an amount equal to the difference between that portion of the value of the new building attributable to the active solar energy system and the total amount of all rebates, if any, that were provided to either the owner-builder or the initial purchaser.<sup>6</sup> Thus, the assessor enrolled a new base year value of \$390,000 (purchase price of \$420,000 less the value of solar energy system of \$30,000).

Although the new base year value of \$390,000 for the replacement dwelling is lower than the full cash value of the sale of the original property of \$400,000, the property does not qualify for the section 69.5 base year value transfer. The full cash value for the equal or lesser value comparison test for the replacement property is \$420,000, because the value for the comparison must include all segments of the appraisal unit, including the value of any excluded new construction (for example, the active solar energy system).

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<sup>4</sup> Section 110.

<sup>5</sup> Form BOE-64-SES, *Initial Purchaser Claim for Solar Energy System New Construction Exclusion*.

<sup>6</sup> Section 73 (e)(1)(B).

***Example 2***

A taxpayer purchased a replacement dwelling for \$450,000 on December 10, 2013 from a builder. The property included an active solar energy system which the assessor determined had an attributable value of \$30,000. The taxpayer filed a claim form for the new construction exclusion for the active solar energy system.

Subsequently, the original property sold on January 15, 2014 for \$500,000, and the 59 year old taxpayer filed a section 69.5 claim to transfer the base year value to the replacement property. The property qualifies for the base year value transfer since the equal or lesser value comparison was met (\$500,000 original property versus \$450,000 replacement property). However, the taxpayer is not eligible for the new construction exclusion for the active solar energy system.

Section 73 provides that an assessor will reduce the ***new base year value*** established as a result of a change in ownership, where a qualifying active solar energy system is involved, by the amount attributable to the active solar energy system. However, a section 69.5 base year value transfer does not establish a ***new base year value*** since it is a transfer of an existing base year value from an original property. Therefore, the taxpayer would not be able to reduce the ***transferred base year value*** by the amount attributable to the active solar energy system.

If you have any questions regarding active solar energy systems and section 69.5 base year value transfers, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee  
Acting Deputy Director  
Property Tax Department

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