

California State  
**Board of Equalization**

**Legislative Bill Analysis**

Legislative and Research Division

Assembly Bill 652 (Flora)

Date: 04/03/17

Program: Property Taxes

Sponsor: California Assessors' Association

Revenue and Taxation Code Sections 50, 71, 82 and 110.1

Effective: Immediately upon enactment

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**Summary:** Provides that the "base year value" label does not attach to construction in progress (CIP)-related assessments and details the appeals period for CIP-related assessments.

**Purpose:** To align the taxpayer's appeals filing period to challenge the annual assessed value of partially completed new construction with the taxpayer's ability to receive a refund.

**Fiscal Impact Summary:** No revenue impact.

**Existing Law: CIP-Assessments.** The law requires assessors to value CIP at its market value on every January 1 (the lien date).<sup>1</sup> The law uses inconsistent terms to describe this value.<sup>2</sup> Relevant to this bill, RTC Section 110.1(b) states that the sum of various components, one part of which is annual CIP market value, "shall be known as the base year value" of the entire property.

The "base year value" label is significant because of its permanence. Once set, the law limits annual increases to the base year value assigned to new construction to the inflation rate but not to exceed 2%.

Historically, neither the BOE nor assessors considered CIP to have a base year value.<sup>3</sup> Rather, its base year value was first assigned ("new" base year value) upon completion of the project at its market value.<sup>4</sup>

In 2016, a court ruled that based on the plain language of RTC Section 110.1(b), annual CIP market values are "base year values" that "reset" each year for so long as construction is ongoing.<sup>5</sup> While the case changes the label ascribed to CIP assessments, it didn't alter how CIP assessments are determined. A base year value lien date "reset" still requires the assessor to update a CIP assessment to reflect its current market value annually.

**CIP-Related Appeals.** Appeals periods differ for base year value assessments and annual market value-based assessments. Because of the long-term significance of a base year value, the law gives taxpayers four years to protest this cornerstone value.<sup>6</sup> In contrast, depending on the county, the appeals deadline for annual market value-based assessments is September 15 or November 30 of the same year.<sup>7</sup>

Relevant to this bill, the court ruled that a CIP appeal is "timely" if filed within four years (i.e., because the court extended the base year value label to a CIP assessment), but a refund is available only if the appeal is filed in the same year.<sup>8</sup>

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<sup>1</sup> RTC Sections [50](#), [71](#) and [110.1](#)(a)(2)(B).

<sup>2</sup> RTC Section 110.1(a)(2)(B) "fair market value" if [new construction] uncompleted on the lien date; Section 110(b) "base year value"; Section 50 "value" as of the lien date; and Section 71 "full value" every lien date until date of completion. Also note Sections [75.8](#) and [75.10](#) "new base year value" but for completed construction, not CIP.

<sup>3</sup> Assessors' Handbook [Section 502](#), Advanced Appraisal, page 131 and [Section 410](#), Assessment of Newly Constructed Property, page 36.

<sup>4</sup> RTC Sections 71, 75.8, 75.10, 110.1(a)(2)(B).

<sup>5</sup> *Ellis v. County of Calaveras* (2016) [245 Cal.App.4<sup>th</sup> 64](#). Also see LTA [2016/042](#).

<sup>6</sup> RTC Section [80](#)(a)(3).

<sup>7</sup> RTC Section [1603](#). See list of [county deadlines](#).

<sup>8</sup> The court ruled that while there was a "procedurally timely appeal" under Section 80(a)(3), Section 80(a)(5) prohibited the taxpayer from any relief.

**Proposed Law: CIP-Assessments.** This bill amends various sections of law to restore the concept that CIP assessments do not have base year values. The amendments do not change how the law requires CIP assessments to be determined. (RTC Sections 50, 71, 110.1)

**CIP-Related Appeals.** This bill adds RTC Section 82, specific to the filing period for CIP-related appeals.

**Ongoing Construction.** Appeals related to the January 1 market value of construction in progress must be filed by September 15 or November 30 of that same year depending on the county (CIP market value appeal).

**Completed Construction.** Appeals related to the market value of the construction on the day it is completed must be filed within four years (base year value appeal).

These appeal periods functionally align with the taxpayer's ability to obtain a refund if the appeal is successful.

As a tax levy, this bill would be effective immediately upon enactment.

**Background:** This bill relates to *Ellis v. County of Calaveras* (2016) [245 Cal.App.4<sup>th</sup> 64](#). In that case, a court found that the taxpayer was not entitled to a reduction in property taxes paid on an unfinished garage. BOE Letter to Assessors' [2016/042](#) discusses this case in detail.

### **Commentary:**

1. **Effect of the bill.** Although the *Ellis* case altered the BOE's and assessors' historical view that CIP does not have a base year value, in practical application, the case did not change any assessment practice related to CIP assessments. The court's view that each year construction remains ongoing a "new base year value" is established (i.e., it resets every year) is functionally equivalent to the view that CIP has no base year value. This bill adds explicit language in statute that CIP does not have a base year value.
2. **Improves clarity and eliminates frustration.** The recent ruling in *Ellis* allows taxpayers to undertake actions which are procedurally possible but with no practical effect, which would further frustrate taxpayers. Even though the court stated that annual CPI market values are base year values, in practical application, taxpayers do not have four years to protest these values. Specifically, the court ruled that while there was a "procedurally timely appeal" under Section 80(a)(3), Section 80(a)(5) prohibited the taxpayer from any relief. Thus, the case didn't change the requirement that a taxpayer file an appeal every year that the taxpayer disagrees with a CIP value to receive a refund. For this reason, it is proposed that the law explicitly make the appeal filing period for CIP appeals consistent with the practical considerations that would allow a refund.
3. **Improves tax code consistency** This bill harmonizes inconsistent terms on the subject of uncompleted construction used in Property Tax Law.

**Costs:** This bill would result in minor absorbable costs to update publications.

**Revenue Impact:** This bill has no revenue impact.