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No. 2010/036

July 23, 2010

TO COUNTY ASSESSORS:

**NEW CONSTRUCTION EXCLUSION:
SEISMIC RETROFITTING IMPROVEMENTS**

On June 8, 2010, the voters of California approved Proposition 13 (SCA 4, Stats. 2008, Res. Ch. 115) which amends article XIII A of the California Constitution to combine the two new construction exclusions for seismic retrofitting, thereby eliminating the 15-year new construction exclusion for seismic safety improvements on unreinforced masonry buildings. Senate Bill 111 (Stats. 2008, Ch. 336) is the companion bill that makes the corresponding changes to Revenue and Taxation Code¹ sections 70(c) and 74.5. These changes became effective on June 9, 2010.

This letter summarizes the changes to the new construction exclusion for seismic safety improvements. In doing so, this letter supersedes Letter To Assessors 2001/089 (December 17, 2001).

UNREINFORCED MASONRY BUILDING IMPROVEMENTS

Former section 70(d)² provided a 15-year new construction exclusion for improvements to unreinforced masonry buildings undertaken to comply with local ordinances on seismic safety. This 15-year exclusion has been eliminated. Any seismic safety improvements to unreinforced masonry buildings completed on or after June 9, 2010 may be excluded from assessment under section 74.5. Any seismic safety improvements to unreinforced masonry buildings excluded from assessment under former section 70(d) will remain excluded until the property undergoes a change in ownership.

SEISMIC RETROFITTING COMPONENTS

Section 74.5³ has been amended to implement the provisions of Proposition 13 (2010). As amended, section 74.5 provides a new construction exclusion for the addition of any seismic retrofitting components to existing buildings and structures. Section 74.5 does not apply to any seismic retrofitting components of an entirely new structure.

Seismic retrofitting components includes both seismic retrofitting improvements and improvements using earthquake hazard mitigation technologies.

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

² Proposition 23, approved by the voters in 1984.

³ Added to implement Proposition 127, approved by the voters in 1990.

Seismic Retrofitting Improvements

In order to exclude seismic retrofitting improvements from assessment under section 74.5(b)(2), the improvements must fit into one of the following classifications:

- Retrofitting or reconstructing to *abate falling hazards* that pose serious danger.
- *Structural strengthening*.
- Improvements *resisting seismic force levels* during an earthquake to significantly reduce the hazards to life and safety and also provide safe entry and exit during and immediately after an earthquake.

Seismic retrofitting improvements does not include alterations—such as new plumbing, electrical, or other added finishing materials—completed in addition to seismic-related work. Seismic retrofitting includes those items referenced in Appendix A of the *International Existing Building Code* of the International Code Council.⁴

Improvements Utilizing Earthquake Hazard Mitigation Technologies

Section 74.5(b)(3) defines *improvements utilizing earthquake hazard mitigation technologies* as improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake. Such improvements involve strategies for earthquake protection of structures such as those technologies referenced in Part 2 of Title 24 of the *California Building Code* and similar seismic provisions in the *International Existing Building Code*.

Termination of New Construction Exclusion

The new construction exclusion is available to the property owner who completes the construction; it is not passed along to subsequent owners. Thus, when the property undergoes a change in ownership, the entire property, including the previously excluded new construction, is reappraised at its current full cash value as of the date of the transfer.

Filing Requirements

To receive the new construction exclusion under section 74.5, a property owner must notify the county assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion. Additionally, all documents needed to support the claim must be filed no later than six months after completion of the project. Prior law required supporting documents be filed on or before April 15 following the completion of the project.

It is the responsibility of the property owner, primary contractor, civil or structural engineer, or architect to certify to the building department those portions of the project that are seismic retrofitting components as defined by section 74.5. Upon completion of the project, the building department is to report to the county assessor the costs of those portions of the project that are seismic retrofitting components.

⁴ According to the California Seismic Safety Commission and the California Building Standards Commission (Department of General Services), the *Uniform Code for Building Conservation* is no longer being maintained or widely published. That code has been replaced by the *International Existing Building Code*.

Claim Form

Section 74.5(d) requires that the State Board of Equalization (Board) prescribe the manner and form for claiming the exclusion. The claim form (form BOE-64, *Claim for Seismic Safety Construction Exclusion from Assessment*) was reviewed by the California Assessors' Association Forms Subcommittee and adopted by the Board on July 15, 2010. A sample form is attached and is available on the forms auxiliary website for county assessors' use.

CONCLUSION

There are two publications that discuss seismic safety improvements available from the Seismic Safety Commission:

- *The Commercial Property Owner's Guide to Earthquake Safety*, 2006 Edition, [CSSC 2006-02]
- *The Homeowner's Guide to Earthquake Safety*, 2005 Edition, [CSSC 2005-01]

These publications may be downloaded from the Seismic Safety Commission website at www.seismic.ca.gov/pub.html or are available for purchase. For further information regarding these publications, please contact the Seismic Safety Commission at 916-263-5506.

Enclosed is a copy of section 2 of article XIII A of the California Constitution, and Revenue and Taxation Code sections 70(d) and 74.5 with the changes denoted by strikeout/underline. If you have any questions regarding the application of this new construction exclusion, please contact the Assessment Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

Section 2 of Article XIII A is amended to read:

(a) ~~...Also For purposes of this section, the term "newly constructed" does not include the that portion of an existing structure that consists of the construction or reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement of seismic retrofitting components, as defined by the Legislature.~~

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" does not include any of the following:

~~... (4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies, that are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements that qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).~~

~~(5) (4) The construction, installation, removal, or modification...~~

Section 70 of the Revenue and Taxation Code is amended to read:

~~... (d) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a structure must be improved to comply with local ordinances on seismic safety, "newly constructed" and "new construction" does not mean the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with the local ordinance. This exclusion shall remain in effect during the first 15 years following that reconstruction or improvement (unless the property is purchased or changes ownership during that period, in which case the provisions of Chapter 2 (commencing with Section 60) of this division shall apply).~~

~~(2) In the sixteenth year following the reconstruction or improvement referred to in paragraph (1), the assessor shall place on the roll the current full cash value of the portion of reconstruction or improvement to the structure that was excluded pursuant to this subdivision.~~

~~(3) The governing body that enacted the local ordinance shall issue a certificate of compliance upon the request of the owner who, pursuant to a notice or permit issued by the governing body that specified that the reconstruction or improvement is necessary to comply with a seismic safety ordinance, so reconstructs or improves his or her structure in accordance with the ordinance. The certificate of compliance shall be filed by the property owner with the county assessor not later than six months after the completion of the project. The failure to file a certificate of completion within the prescribed filing period shall be deemed a waiver of the exclusion for that year.~~

~~(e) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a tank must be improved, upgraded, or replaced to comply with federal, state, and local regulations on underground storage tanks, "newly constructed" and "new construction" does not mean the improvement, upgrade, or replacement of a tank to meet compliance standards, and the improvement, upgrade, or replacement shall be considered to have been performed for the purpose of normal maintenance and repair.~~

Section 74.5 of the Revenue and Taxation Code is amended to read:

(a) For purposes of ~~paragraph (4)~~ of subdivision (e) (a) of Section 2 of Article XIII A of the California Constitution, "newly constructed" and "new construction" does not include that portion of an existing structure that consists of the construction or reconstruction of seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies, to an existing building or structure components, as defined in this section.

(b) For purposes of this section, all of the following apply:

(1) "Seismic retrofitting components" means seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies.

(2) "Seismic retrofitting improvements" means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger. "Seismic retrofitting improvements" also means either structural strengthening or providing the means necessary to resist seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. "Seismic retrofitting improvements" does not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure. "Seismic retrofitting" includes, but is not limited to, those items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

~~(2)~~(3) "Improvements utilizing earthquake hazard mitigation technologies" means improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake. These improvements shall involve strategies for earthquake protection of structures. These improvements shall use technologies such as those referenced in Part 2 (commencing with Section 101) of Title 24 of the California Building Code and similar seismic provisions in the Uniform Building Code.

(c) The property owner, primary contractor, civil or structural engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies components, as defined in this section. Upon completion of the project, the building department shall report to the value of those county assessor the costs of the portions of the project that are seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies to the county assessor components.

(d) In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies components. The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.

(e) The exclusion from "newly constructed" and "new construction" under this section is not applicable to seismic safety reconstruction and improvements that qualify for the exclusion provided in subdivision (d) of Section 70 Legislature finds and declares that the reconstruction

and improvement actions that were excluded from "newly constructed" and "new construction" by Chapter 1187 of the Statutes of 1983 meet the requirements of "construction or reconstruction of seismic retrofitting components on an existing structure," as provided in the act that amended this subdivision. Therefore, a structure constructed of unreinforced masonry bearing wall construction that is receiving a 15-year new construction exclusion as provided by Chapter 1187 of the Statutes of 1983 on the operative date of this act shall continue to receive, pursuant to this section, an exclusion after the 15-year period expires, unless the property is purchased or changes ownership, in which case Chapter 2 (commencing with Section 60) applies.

~~(f) This section shall only apply to projects completed on or after January 1, 1991.~~

**CLAIM FOR SEISMIC SAFETY CONSTRUCTION
EXCLUSION FROM ASSESSMENT**

This claim must be filed with the Assessor prior to, or within 30 days of, completion of construction.

CLAIMANT NAME AND MAILING ADDRESS
(Make necessary corrections to the printed name and mailing address)

FOR ASSESSOR'S USE ONLY	
DATE RECEIVED _____	
APPROVED <input type="checkbox"/>	DENIED <input type="checkbox"/>
REASON FOR DENIAL	

CLAIMANT'S NAME (PLEASE PRINT) _____ ASSESSOR'S PARCEL NUMBER _____

STREET ADDRESS (IF DIFFERENT THAN MAILING ADDRESS) _____ CITY _____ ZIP CODE _____

DATE (OR ANTICIPATED DATE) OF COMPLETION _____ DAYTIME TELEPHONE NUMBER (_____) _____ E-MAIL ADDRESS _____

YES NO The property owner, primary contractor, civil or structural engineer, or architect has certified to the building department those portions of the project that are seismic retrofitting components, as defined by Revenue and Taxation Code section 74.5(b)(2).

Section 74.5 of the Revenue and Taxation Code excludes from assessment that portion of an existing structure that consists of the construction and reconstruction of seismic components.

In order to receive the exclusion, this claim form must be filed with the assessor prior to, or within 30 days of, completion of the project. All documents necessary to support the exclusion must be filed with the Assessor by the property owner not later than six months after completion of the project.

The property owner, primary contractor, civil or structural engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting components, as defined by Revenue and Taxation Code section 74.5(b)(2). Upon completion of the project, the building department shall report to the assessor the costs of the portions of the project that are seismic retrofitting components.

For purposes of section 74.5

- (1) "Seismic retrofitting components" means seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies.
- (2) "Seismic retrofitting improvements" means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger. "Seismic retrofitting improvements" also means either structural strengthening or providing the means necessary to resist seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. "Seismic retrofitting improvements" does not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure. "Seismic retrofitting" includes, but is not limited to, those items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation of the International Conference of Building Officials.
- (3) "Improvements utilizing earthquake hazard mitigation technologies" means improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake. These improvements shall involve strategies for earthquake protection of structures. These improvements shall use technologies such as those referenced in Part 2 (commencing with Section 101) of Title 24 of the California Building Code and similar seismic provisions in the Uniform Building Code.

THIS EXCLUSION EXPIRES UPON CHANGE IN OWNERSHIP OF THE PROPERTY.

CERTIFICATION

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct and complete to the best of my knowledge and belief.

SIGNATURE OF PERSON MAKING CLAIM _____ DATE _____