



STATE BOARD OF EQUALIZATION

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No. 79/207

November 30, 1979

TO COUNTY ASSESSORS:

REVISIONS IN CALAMITY AND DISASTER RELIEF
ASSESSMENT PROCEDURES IN LIGHT OF ASSEMBLY BILLS 1488 AND 1019

Assembly Bill 1488, Chapter 242 of the 1979 Statutes, repealed the following Revenue and Taxation Code sections:

- (1) Section 155.1, Assessment of Damaged or Destroyed Property in Disaster Areas
- (2) Section 155.13, Reassessment of Property Damaged by Misfortune or Calamity
- (3) Section 155.14, Reassessment of Possessory Interest in Property Damaged by Misfortune or Calamity

It also added a new comprehensive Chapter 2.5, Disaster Relief, to Part 1, Division 1 of the Revenue and Taxation Code commencing with Section 170. Assembly Bill 1019, Chapter 1161 of the 1979 Statutes, amended Section 170. The amended section retains most of the essential elements of the earlier law, while addressing itself to valuation of damaged property within the guidelines of Article XIII A. Notable provisions in the current law include:

- (1) County boards of supervisors are authorized to enact ordinances granting tax relief through reduction in current year assessments for real property, personal property, and/or possessory interest property which has sustained qualifying damage through misfortune or calamity. However, a county may not enact such ordinance for possessory interest property unless it also enacts an ordinance covering property generally.

Any ordinance in effect pursuant to Sections 155.1, 155.13, or 155.14 remains in effect to its terms as if such ordinance was adopted pursuant to and subject to the limitations of the new section.

An ordinance may specify the time limit in which a property owner may file an application for relief; or if no time is specified in the ordinance, the statute limit is 60 days from the time of damage. If no application is filed but the assessor determines a property has suffered qualifying damage or loss due to a misfortune

or calamity, he shall provide an application for reassessment to the last known property owner. The property owner has 30 days from the assessor's notice in which to file the application.

- (2) The definition of qualifying damage is: Any physical damage to land, structures, fixtures or personal property; loss of access; and/or loss of the right to exercise a possessory interest when the right has been suspended by appropriate authority because of a calamity such as drought or fire danger, etc., or any combination of the above whose total value is \$5,000 or more full cash value as measured at the time of the damage or loss. This is a change from former law which placed \$5,000 as the minimum qualifying damage except in areas declared disaster areas by the Governor; in which case, minimum qualifying damage was \$1,000.
- (3) Upon receipt of an application, the assessor must verify damage or loss by reappraising, separately, the land, the improvements, and the personal property. If the total value loss is \$5,000 or more, the assessor shall determine the percentage of loss to each classification of property and the ratio of damaged to undamaged fair market value. The current taxable value shall be adjusted by the same percentage and ratio.

However, the adjustment shall not exceed actual loss. After reappraisal, the assessor shall notify the property owner of the new value and advise him/her that he/she has 14 days from the mailing of the notice in which to appeal the new assessment to the local assessment appeals board. If the assessment is appealed, the board must decide value on the evidence presented. The revised assessment is forwarded to the auditor who enters it on the roll and recomputes the tax liability for the current year based on the tax rate applicable at the time of the damage. The assessee shall be liable for the sum of (1) a prorated portion of the tax due on the property for the fiscal year of the misfortune had the loss not occurred, such proration to be determined on the number of months before the misfortune, plus (2) a prorated portion of the tax due on the property as reassessed based on the number of months the property was in a damaged condition including the month in which misfortune occurred.

If the damage or destruction occurred after March 1 and before the beginning of the next fiscal year, the reassessment shall be utilized to determine the tax liability for the next fiscal year. Provided, however, if the property is fully restored during the next fiscal year, taxes due for that year shall be prorated based on the number of months in the year before and after completion of restoration.

- (4) On the lien date next following the date of misfortune or calamity, the property shall be reassessed in the same manner as prescribed for other assessable property. Board Rule 461 and Revenue and

Taxation Code Section 51(c) apply. If any portion of the land or improvement is destroyed completely (physically removed from the site), the taxable value of the removed portion shall be deducted from the property's prior year taxable value, i.e., factored base year value, prior to the new assessment.

The value determined under Revenue and Taxation Code Section 51 would then be the sum of (1) the lesser of the base year land value of the remaining land appropriately factored or the current fair market value of the remaining land, plus (2) the lesser of the base year value of the remaining improvement appropriately factored or the current fair market value of the remaining improvement.

When no portion of the land or improvement is actually removed but damage has occurred, the application of Revenue and Taxation Code Section 51(c) can lead to an increase in assessment over that which has been applied in the balance of the year in which the calamity occurred, even though no repairs have been made. This situation can occur, for example, when the market value of a damaged improvement is still higher than the factored base year value of the undamaged improvement.

- (5) Chapter 3, New Construction, of the Revenue and Taxation Code also speaks to the issue of damaged property. Section 70(c) says:

"Where real property has been damaged or destroyed by misfortune or calamity, 'Newly Constructed' and 'New Construction' does not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, which is not substantially equivalent to the damaged or destroyed portion, shall be deemed to be new construction and only that portion which exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1 of the Revenue and Taxation Code."

In accordance with Board Rule 463, Newly Constructed Property, new construction is deemed not to have occurred if (a) the full value of the reconstructed property is substantially equivalent to its full value prior to the disaster, or (b) the property is reconstructed in a timely manner and is substantially equivalent in size, use, and quality to the property that existed prior to the disaster.

Examples of Calamity Procedures

EXAMPLE 1: Assume the county has a calamity ordinance under Chapter 2.5, Section 170 of the Revenue and Taxation Code. The subject property is a residence located in an expensive neighborhood and on a hillside. Recent

rains have been heavy. In November 1979, a mud slide occurs which (1) destroys the structure and (2) damages the site by depositing dirt upon it. Further assume (1) the property has a 1975 base year, (2) the tax rate for the current tax year is 1 percent of taxable value, and (3) the property is not restored by the following March 1, lien date.

(A) Current Year Taxable Value:

Land	\$83,200	
(1975 base value) x 1.0824 (1979 factor)		\$ 90,000
Improvement	\$24,500	
(1975 base value) x 1.0824 (1979 factor)		<u>270,000</u>
Total		\$360,000
Tax rate		<u>x .01</u>
Current year tax liability		\$ 3,600

(b) Fair Market Value Before the Calamity:

Land	\$120,000
Improvement	<u>300,000</u>
Total	\$420,000

(C) Fair Market Value After the Calamity:

Land	\$90,000
(\$120,000 less \$30,000 to remove burden and regrade)	
Improvement	<u>0</u>
Total	\$90,000

Percent of land value remaining $\frac{\$ 90,000}{\$120,000} = 75\%$

Percent of improvement value remaining $\frac{-0-}{\$300,000} = 0\%$

(D) Computation for Tax Liability of Property in Damaged Condition:

Land	.75 x \$90,000	\$ 67,500
Improvement	.00 x \$270,000	<u>0</u>
Total		\$ 67,500
Tax rate		<u>x .01</u>
Tax liability for damaged property		\$ 675

(E) Calamity Relief Tax Liability Proration:

$\frac{4}{12}$ (months undamaged)	x \$3,600	\$ 1,200
$\frac{8}{12}$ (months damaged)	x \$675	<u>450</u>
		\$ 1,650

(F) Taxable Value on March 1, 1980:

Land	\$90,000
(The lesser of \$91,857 (\$83,200 x 1.104) and \$90,000 market value)	
Improvement	<u>0</u>
Total	\$90,000
Tax rate	<u>x .01</u>
Tax liability	\$ 900

EXAMPLE 2: Assume the property above is restored to the substantial equivalent in September of 1980. The lot has been cleared and a duplicate house has been built on the site. However, the owner has added a detached garage that did not previously exist. The assessor determines that such a garage adds \$25,000 to the value of the property. The 1981-82 tax liability would be computed as follows:

Land	\$83,200 x 1.126	\$ 93,683.00
Replacement Improve- ments	\$249,500 x 1.126	280,937.00
New garage		<u>25,000.00</u>
Taxable value		\$399,620.00
Tax rate	<u>x .01</u>	
Tax liability 1981-82		\$ 3,996.20

If the destroyed home had been replaced with a new home that was larger than the previous version so that the new home did not meet the tests of substantial equivalency contained in Rule 463, the full value of the newly constructed portion, i.e., the market value of the additional living area, would be added to the 1981-82 assessment in the same manner as the value attributable to the new garage.

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EXAMPLE 3: Assume the calamity described in Example 1 takes place on April 15, 1980, the restoration as described in Example 2 is completed by December 15, 1980, and the market values before and after the calamity are the same as in Example 1.

(A) Tax Relief Proration for 1979-80 year:

$\frac{9}{12}$ (months undamaged)	x \$3,600	\$2,700
$\frac{3}{12}$ (months damaged)	x 675	<u>169</u>
Total		\$2,869

(B) Initial Taxable Value for 1980-81:

Land (\$90,000 x .75)	\$67,500
Improvement (\$270,000 x .00)	0

(C) Taxable value for 1980-81 After Restoration:

Land	\$ 91,857 (\$83,200 x 1.104)
Restored Improvement	<u>275,448</u> (\$249,500 x 1.104)
Total	\$367,305*

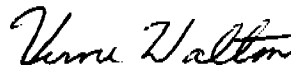
(D) Determination of 1980-81 Tax Liability:

$\frac{6}{12}$ (months damaged)	x \$ 675	\$ 337
$\frac{6}{12}$ (months restored)	x \$3,673*	<u>1,837</u>
		\$2,174

* The \$25,000 garage, as new construction, cannot be enrolled until the following lien date.

If you have any questions regarding calamity valuation procedures, please contact John McCoy or Don Ide of our staff; phone number (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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