

NEW CONSTRUCTION AUTHORITATIVE CITATIONS

The following provides the authoritative citations for the New Construction Survey Topic. In general, citations include Constitutional provisions, sections of the Revenue and Taxation Code, other applicable statutes, court cases, Property Tax Rules, *Assessors' Handbook Sections*, Letters To Assessors, and legal annotations pertaining to the topic.

CITATION	DESCRIPTION
California Constitution	
Art. XIII A, §2(a)	<p>The "full cash value" means the county assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, the appraised value of real property when: purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment.</p> <p>The full cash value base may be adjusted by an inflationary rate not to exceed 2 percent for any given year, or reflect reductions due to decline in value. The value may be reduced to reflect substantial damage, destruction, or other factors causing a decline in value.</p> <p>"Newly constructed" does not include the portion of reconstruction or improvement made to an unreinforced masonry structure to satisfy a local seismic safety ordinance.</p>
Art. XIII A, §2(c)	The Legislature may exclude from new construction active solar energy systems, fire sprinkler systems, and related improvements added to an existing building, residential alterations related to handicapped access, and seismic retrofitting or earthquake hazard mitigation improvements.
Art. XIII A, §2(i)	The Legislature shall provide that contaminated properties shall be eligible for either transfer of their base year value to a replacement property, or the exclusion from new construction of any work necessary to remediate the contamination of the property.
Health and Safety Code	
§19825	Cities and counties must include building address, owner's name, among other information, on building permits. They may also require the permit issuing agency to supply the assessor's parcel number.
§19826	No city or county may issue a building permit that does not include all the required applicant declarations. The city or county may also require the issuing agency to send copies of issued building permits to the assessor within 15 days of issuance.
§19826.5	A city or county may require a permit-issuing agency to inform the assessor within 15 calendar days of conducting a final construction inspection.

CITATION	DESCRIPTION
Revenue and Taxation Code	
§50	Values for new construction shall be entered on the roll for the lien date next succeeding the date of completion. Construction in progress on the lien date shall be entered on the roll as of the lien date.
§69.4	The required repair or replacement of contaminated property shall not be considered "new construction." The factored base year value of the contaminated property shall be transferred to the replacement property. See LTA 99/23 and 2007/047 .
§70	<p>"Newly constructed" and "new construction" means:</p> <ul style="list-style-type: none"> • Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and • Any alteration of land or of any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation thereof or which converts the property to a different use. <p>Any rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture, is a major rehabilitation of such improvement or fixture.</p> <p>New construction does not include the environmentally mandated replacement or repair of underground storage tanks and associated structures.</p>
§71	The assessor shall determine the new base year value for the portion of any taxable real property that has been newly constructed. The base year value of the remainder of the property assessed, which did not undergo new construction, shall not be changed. New construction in progress on the lien date shall be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its full value.

CITATION	DESCRIPTION
§72	<p>Permit issuing agencies shall send:</p> <ul style="list-style-type: none"> • A copy of any building permit issued as soon as possible after the date of issuance. • A copy of any certificate of occupancy or other document showing date of completion within 30 days after the date of issuance or finalization. <p>An assessee must provide an approved set of building plans designated for the county assessor. The scale copy shall be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of a residential building, the intended use of each room. The assessor may require the plans to be in an electronic format, if available.</p> <p>A county may enact an ordinance requiring local planning agencies to submit copies of filed maps, in electronic format if available, to the county assessor as soon as possible after the maps are filed.</p>
§73(b)	<p>Active solar energy system means a system that, upon completion of the construction of a system as part of a new property or the addition of a system to an existing property, 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.</p> <p>Active solar energy system does not include solar swimming pool heaters or hot tub heaters.</p> <p>Active solar energy systems may be used for any of the following:</p> <ol style="list-style-type: none"> 1. Domestic, recreational, therapeutic, or service water heating. 2. Space conditioning. 3. Production of electricity. 4. Process heat. 5. Solar mechanical energy.
§73(e)	<p>Active solar energy systems are excluded from the definition of new construction for fiscal years 1999-2000 to 2015-16, inclusive, and remains in effect only until January 1, 2017. Includes active solar energy systems, not previously excluded, in a new building not intended for occupancy by the owner-builder, provided that the owner-builder does not receive the same exclusion and the purchaser buys the building before it is assessed to the owner-builder. The owner-builder must file a Board-prescribed claim form for the excluded portion and the assessor must evaluate the claim and determine the value of the exempt portion. BOE-64-SES, <i>Initial Purchaser Claim for Solar Energy System New Construction Exclusion</i>.</p>
§73(g)	<p>EFFECTIVE June 20, 2014, this section applies to property tax lien dates for the 1999-2000 fiscal year to the 2023-24 fiscal year, inclusive.</p>

CITATION	DESCRIPTION
§73(i)(2)	Active solar energy systems that qualify for an exclusion under section 73 prior to January 1, 2017, shall continue to be excluded on and after January 1, 2017, until there is a subsequent change in ownership.
§74	Fire suppression systems (sprinklers, other extinguishing systems, detection systems, and related egress improvements) added to an existing building after November 7, 1984 are excluded from the definition of new construction.
§74.3	The construction, installation, or modification on or after June 6, 1990 of accessibility improvements to an existing dwelling occupied by a severely and permanently disabled person is excluded from the definition of new construction.
§74.5	<p>Seismic retrofitting improvements to an existing building are excluded from the definition of new construction. The exclusion does not apply to seismic retrofitting components of an entirely new structure.</p> <p>To receive the exclusion under this section the property owner must notify the assessor of their intent to file a claim no later than 30 days after the completion of the project. The taxpayer must also file all necessary documentation, including form BOE-64, <i>Claim for Seismic Safety Construction Exclusion from Assessment</i> no later than six months after the completion of the project.</p>
§74.6	The construction, installation, or modification on or after June 7, 1994 of improvements to make a building more accessible to a disabled person is excluded from new construction. <i>This exclusion covers accessibility projects other than those specified in section 74.3(a).</i>
§74.7	<p>New construction does not include the repair or replacement of a structure on qualified contaminated real property where the structure was substantially damaged or destroyed (more than 50 percent of the structure's full cash value) as part of the environmental remediation of the site. The repaired or replacement structure must be similar in size, utility, and function to the original structure.</p> <p>To claim this exclusion, the property owner must notify the assessor in writing prior to or within 30 days of completion of the work, and must submit all supporting documentation to the assessor within six months of completion.</p>

CITATION	DESCRIPTION
§75.10	<p>Whenever new construction is completed, the assessor shall appraise it at its full cash value on the date the new construction is completed. The value shall be the new base year value of the property or the new construction.</p> <p>Actual physical new construction includes the removal of a structure from land. The new base year value of the remaining property (after the removal of the structure) shall be the lesser of factored base year value or full cash value.</p> <p>Actual physical new construction includes the discovery of previously unknown reserves of oil or gas.</p>
§75.12	<p>New construction is considered complete on the earliest of the following dates:</p> <ul style="list-style-type: none"> • When the property is available for use by the owner, unless the owner does not intend to occupy the property. • When occupied or used with the consent of the owner or can be functionally used or occupied (including rental or lease of the property). <p>Use as a model home does not constitute occupancy.</p> <p>The owner shall notify the assessor prior to or within 30 days of the date of commencement of construction that he or she does not intend to occupy or use the property. If the owner does not notify the assessor as provided in this subdivision, the date shall be conclusively presumed to be the date of completion. If no date of completion is established, the owner of the property must notify the assessor within 45 days of an ownership change pursuant an unrecorded contract of sale or an event that signifies completion.</p> <p>The assessor can grant the builders' exclusion automatically to a builder that constructs properties in residential subdivisions. Prior to January 1, 2014, a residential subdivision builder granted the exclusion automatically was not required to provide the notice in the above paragraph.</p> <p>Effective January 1, 2014, this section was amended by SB 825 (Stats. 2013, ch. 607), which provides that residential subdivision developers automatically receiving the builders' exclusion must now also notify the county assessor when a subdivision's property becomes ineligible for the exclusion. The events upon which notification would be required are the same for builders who filed a claim for the exclusion and residential subdivision builders granted the exclusion automatically.</p>
§75.18	<p>If the actual date of completion of new construction occurs between January 1 and June 30, the new base year value shall be adjusted on the following January 1 by the inflation factor (effective 1/1/97).</p>

CITATION	DESCRIPTION
§155.20(e)	A county board of supervisors may not exempt new construction unless the total base year value of the property, including the new construction, is \$10,000 or less. The assessor may not exempt any property without specific authorization from the county board.
§211	Newly planted orchards and vineyards are exempt from assessment as new construction for either three or four years after the season of planting. In addition, freeze damage in 1990, 1998, and 2007, which required pruning back to the trunk of the grapevine or fruit tree, reactivated this exemption period.
§401.6	When using the cost approach to value a newly constructed special use property, the assessor may not add a component for entrepreneurial profit unless market-derived evidence supports it. "Entrepreneurial profit" is the amount a developer would expect to recover in excess of his costs incurred with respect to a property.
§441	Upon receipt of a written request by the assessor for information or records, an owner-builder or owner-developer of new construction that is sold to or to be constructed for a third party, shall, within 45 days, provide the assessor with all information and records regarding that property.
Property Tax Rules	
Rule 131	Trees planted in orchard form are exempt until four years after the season of planting, while grapevines planted in vineyard form are exempt until three years after the season of planting. Date palms are exempt until eight years after planting. Grafting creates a new exemption period for trees or vines.
Rule 463	When real property or a portion of the real property is newly constructed after the 1975 lien date, the assessor shall determine the full value of newly constructed property as of the date of completion. A new base year full value is established for newly constructed property. Total taxable property value will be the full value for newly constructed property plus taxable value of preexisting property less taxable value of property removed during construction. New construction means any substantial addition to land and improvements or changing an existing improvement so as to add horizontally or vertically to its square footage, and any substantial physical alteration of land that changes the property's use or results in major rehabilitation.
Rule 463.500	Provides guidelines to interpret sections 75.10 , 75.11 , and 75.12 . Establishes "date of completion" for purposes of supplemental assessments.

CITATION	DESCRIPTION
Assessors' Handbook	
AH 410 (January 2015)	<p><i>Assessment of Newly Constructed Property.</i> Topics covered include valuation procedures, construction in progress on lien date, exclusions, base year value transfers, and new construction issues pertaining to various property types.</p> <p>SUPERSEDED by LTA 2014/037 regarding the sunset date (page 58).</p>
Special Topic Survey	
Change in Ownership and New Construction (April 2004)	<p>Summarizes assessors' practices and BOE guidance in these two major local taxation programs. In the area of new construction, the survey identifies common problems and suggests possible solutions:</p> <ul style="list-style-type: none"> • Substantial equivalent of new • New construction exclusion filing deadlines • Misfortune/calamity exclusion - "Timely Reconstruction" • Seismic safety exclusion - Unreinforced Masonry Bearing Wall Construction Improvements • Remediation of contaminated property
Letters To Assessors	
78/145	<p>Questions and answers about rule 463 and newly constructed property.</p>
78/188	<p>Principles of new construction valuation for purposes of article XIII A, including examples.</p>
79/204	<p>More questions and answers about how to apply new construction valuation principles in light of article XIII A.</p>
80/77	<p>Guidance on how to establish date of completion and base year for new construction completed in stages or new construction of a portion of a structure.</p>
84/97	<p>Superseded by LTA 2010/036</p>
85/113	<p>Soundproofing of existing structures located near airports is not generally considered new construction, since it is usually accomplished through replacement of existing features.</p>
91/26	<p>Superseded by LTA 2010/036.</p>
91/37	<p>In drought situations, where the issuance of a development permit enhances land value, the assessor must take care not to reflect this value in the assessment of the land, since the issuance of a development permit is not in itself either a change in ownership or new construction, but is rather analogous to a change in zoning, which enhances value but cannot trigger reappraisal.</p>

CITATION	DESCRIPTION
93/05	This letter clarifies Board staff position on the types of improvements eligible for exclusion from new construction under section 74.3 (implements "Proposition 110"). The exclusion applies to accessibility modifications made to an existing residential dwelling owned and occupied by a severely and permanently handicapped person, as defined.
94/14	Both the severance of a structure from land and its reaffixation to land constitute new construction requiring the establishment of new base year values and the issuance of supplemental assessments.
94/47	Section 74.6 was enacted to implement "Proposition 177." It excludes from new construction modifications made on or after June 7, 1994, to an existing building to make it more accessible to a handicapped person, providing that these modifications are not eligible for the section 74.3 exclusion (see LTA 93/05).
99/23	Article XIII A(2)(i) , approved by the voters on November 3, 1998, authorizes the Legislature to provide tax relief for qualified contaminated property. See also section 69.4 .
99/60	Superseded by LTA 2010/036
99/62	Effective September 7, 1999, underground storage tanks that are improved, upgraded, or replaced to comply with environmental regulations are excluded from new construction; moreover, the reconstruction of associated structures as a result of the tank work is deemed "normal maintenance and repair" and hence also excluded from new construction.
2001/89	Superseded by LTA 2010/036
2004/051	Wind machines and turbines are excluded from new construction under section 73 only if installed between January 1, 1981, and July 19, 1981. Wind machines and turbines installed before or after this period are assessable.
2004/071	Section 441(d) was amended as of January 1, 2004, by Ch. 316, Stats. 2003. It now requires that an owner-builder or owner-developer of new construction sold to a third party provide the assessor with information and records regarding that property within 45 days of the assessor's written request. The information must include the total consideration paid, both within and outside of the purchase agreement, including the cost of upgrades or other additional developer-performed work.
2007/047	BOE guidelines for contaminated property; includes the exclusion from new construction of repair or replacement of damaged or destroyed structures on contaminated sites.
2007/050	Underground storage tanks and their appurtenances mandated by federal, state, and local requirements, including vapor recovery and monitoring systems, are excluded from new construction within the meaning of section 70(c) .
2008/037	Clarifies the property tax incentive for solar energy systems: it is a new construction exclusion, not an exemption, limited to <i>active</i> solar energy systems.

CITATION	DESCRIPTION
2008/071	Recent legislation extended the solar energy exclusion to systems installed as part of a newly constructed property, non-builder occupied, not previously excluded for the builder, and sold by the builder before the builder was assessed for the property. The BOE has prescribed new form BOE-64-SES to accommodate claims for this form of the active solar energy system exclusion.
2010/036	Effective June 9, 2010 Article XIII A, section 2 and R&T Code section 70 were amended to remove the 15-year limit on the new construction exclusion for seismic safety improvements to unreinforced masonry buildings. Section 74.5 was amended to exclude the addition of any seismic retrofitting components to existing building and structures from the definition of "new construction." This change effectively combined the two separate exclusions under section 74.5.
2011/030	<p>Assembly bill 15 modifies and clarifies Revenue and Taxation Code section 73, as follows:</p> <ul style="list-style-type: none"> • The definition of an active solar energy system has been modified to include a system that is, upon completion of construction, a part of a new property or is an addition to existing property. • The new construction exclusion remains in effect only until there is a subsequent change in ownership. • Active solar energy systems qualifying for the new construction exclusion prior to January 1, 2017 (the date the legislation is repealed) continue to be excluded after that date.
2012/020	Effective January 1, 2012, Senate Bill 947 (Stats. 2011, ch. 351) amends section 69.5(h)(4) to give homeowners additional time to request that any new construction to the replacement dwelling that was completed after a claim for the base year value transfer was filed and approved be included in the transferred value. The 30-day period in this section is amended to six months.
2012/053	<p><i>Guidelines for Active Solar Energy Systems New Construction Exclusion</i></p> <p>SUPERSEDED by LTA 2014/037 regarding the sunset date.</p>
2013/042	<p>Provides examples demonstrating situations involving the sunset date for the solar exclusion and construction in progress for active solar energy systems.</p> <p>SUPERSEDED by LTA 2014/037 regarding the sunset date.</p>
2014/005	Effective January 1, 2014, Senate Bill 825 (Stats 2013, ch. 607) amends section 75.12 by providing that residential subdivision developers automatically receiving the builders' exclusion must also notify the assessor when a subdivision's property becomes ineligible for the exclusion.
2014/037	Effective June 20, 2014, Senate Bill 871 (Stats. 2014, ch. 41) amends section 73 to extend the new construction exclusion for active solar energy systems from 2015-16 to the 2023-24 fiscal year and changes the repeal date from January 1, 2017, to January 1, 2025.

CITATION	DESCRIPTION
Annotations	
610.0001 – 610.0120	Letters written by Board staff interpreting the statutes and rules related to various aspects of new construction.