

## **610.0000 NEWLY CONSTRUCTED PROPERTY**

*See Golf Courses*

*Supplemental Assessment*

**610.0001 Appraisal Upon Completion.** Construction begins in July 1976 and is completed in January 1979. The structure is appraised at \$30,000 on March 1, 1977 (when one-third complete), at \$60,000 on March 1, 1978 (when two-thirds complete), and has an actual fair market value of \$120,000 as of January 1, 1979. The March 1, 1979, newly constructed base year value is \$120,000. Factoring commences March 1, 1980. C 2/11/1980.

**610.0002 Assessment.** When an improvement is made to an existing house, only the portion of the property that is newly constructed receives a new base year value. C 5/3/2007.

**610.0003 Builder's Exclusion.** New construction is deemed to be complete as of the date that the new construction is available for use by the owner, unless the owner does not intend to occupy or use the property and so notifies the assessor prior to, or within 30 days of commencement of construction. If the property is transferred prior to completion of the new construction, any succeeding owner who purchases the property prior to completion will qualify for the exclusion if the succeeding owner sends such notice to the assessor prior to, or within 30 days of that owner's commencement of construction. Thus, the new construction exclusion of Revenue and Taxation Code section 75.12 apply to each owner of the property. C 11/25/1997.

**610.0004 Builders Exclusion.** There is no conflict between Revenue and Taxation Code section 75.12, which excludes individuals from paying supplemental assessments if all the requirements of that section are met, and Revenue and Taxation Code section 71, which requires assessment of construction in progress on the lien date. Section 75.12 relates to supplemental assessments, i.e., assessments made in the interim period between one lien date and the lien date in the subsequent year, and section 71 relates to assessments on the regular roll on the lien date. C 2/18/1997.

**610.0004.005 Automatic Builder's Exclusion.** Revenue and Taxation Code section 75.12(a)(1)(A) provides an exclusion from reassessment for new construction that the owner does not intend to use or occupy if the owner provides the assessor with timely notice of this intent. Section 75.12(a)(1)(B) provides that the new construction for resale exclusion is automatic and no notice is required if all of the following conditions are met: (1) the property is subdivided into five or more parcels, (2) a map describing the parcels has been recorded, and (3) single-family residences will be constructed on the parcels.

The test for the automatic exclusion must be applied to each subsequent owner. If any owner fails to qualify for the automatic exclusion, he/she must provide timely notice to the assessor. A subsequent owner must acquire at least five lots in the same subdivision in order for the automatic new construction exclusion to apply. Parcels with previously-existing residences within the subdivision do not count towards the five parcel minimum. Only lots on which single-family residences will be constructed qualify for the automatic exclusion. If any owner fails to qualify for the automatic exclusion, he/she must provide timely notice to the assessor that they do not intend to use or occupy the property. C 1/23/2008.

**610.0005 Cable Television.** The cable television hook-up of a new subscriber results in new construction where additions of real property are made. If, however, the hook-up of a new subscriber merely involves connecting existing lines, no new construction results.

In determining whether new construction is assessable to the cable television system owner or to the property owner, *Tele-vue Systems, Inc. v. Contra Costa County* (1972) 25

Cal.App.3d 340, holds that the interior portion of the cable television house drop is not assessable to the system owner. C 6/15/1988.

**610.0008 Change in Use.** Physical alterations to a structure that permit a change in use from one of the five general classifications of use types, i.e., agricultural, residential, commercial, industrial, and recreational, to another, or from one sub-use type to another, constitute new construction. Examples of sub-use types in the commercial use classification are office buildings, retail stores, food sales, and service and repair shops. C 5/3/1985.

**610.0009 Change in Use.** Physical alterations to a warehouse that makes it usable as office space constitutes new construction because it is a change in use of the portion of the improvement that was altered. For assessment purposes, only the value added by the physical alteration is subject to reappraisal. The land and that portion of the improvement that were not subject to new construction are not subject to reappraisal. Thus, the base year value established for the physical alteration is to be added to the base year value of the pre-existing land and portion of the improvement not subject to new construction. C 1/17/2001.

**610.0010 Completion Date of Well.** A well is completed and subject to supplemental assessment when it is first available for use. Thus, a well that was available for use and placed in production on August 15 would be subject to supplemental assessment on September 1, whereas if the well were available for use on July 15 but was not yet producing, it would be subject to supplemental assessment on August 1. LTA 12/15/1987 (No. 87/100).

**610.0013 Contaminated Property.** Section 2(i) of article XIII A of the California Constitution excludes from new construction any repairs to, or replacement of, property that was damaged or destroyed during the remediation of environmental problems on a "qualified contaminated property," as defined. However, the construction of improvements to replace structures that were rendered unusable because of contamination, but which were not damaged or destroyed, does not qualify for the exclusion. C 9/30/2002.

**610.0015 Construction in Progress.** A construction project available for occupancy, although vacant for lack of tenants, is complete and its base year value should be determined.

An incomplete construction project no longer qualifies as construction in progress and is to have its base year value determined when it has come to an unscheduled halt for an extended period and there are no definite plans for continuation of construction within a reasonable time.

A construction project to be constructed in definite stages, with some portions being completed and available for use before other portions are constructed, should have base year values determined for the various portions as they are completed. LTA 5/8/1980 (No. 80/77).

**610.0020 Development of Mining Properties.** Development of mining properties which constitutes new construction as defined in Revenue and Taxation Code section 70 shall, pursuant to section 71, be appraised at its full cash value on the lien date and on each lien date thereafter until completed, at which time the entire property shall be appraised at its full value. C 5/26/1982.

**610.0023 Development or Use Permits.** Increases in value which result from the issuance of development or use permits such as permits for water and/or sewer service are similar to value increases that result from zoning changes and are similarly not includable in the base year value until the property changes ownership. LTA 5/9/1991 (No. 91/37); C 4/28/2005.

**610.0024 Disabled Residents Exclusion.** The construction, installation, or modification of any portion or structural component of an existing single-family or multiple-family dwelling which is eligible for the homeowners' exemption, for the purpose of making the dwelling more accessible to a severely and permanently disabled person who is a permanent resident of the dwelling, is excluded from the term "newly constructed." The exclusion applies to the construction of completely new additions as well as to modifications of existing fixtures, facilities, or items in the home. LTA 1/21/1993 (No. 93/05).

**610.0024.005 Disabled Resident Access Exclusion.** The American with Disabilities Act and the California Building Code provide specific formulas and guidelines for handicapped accessibility. Each room added and its function should be analyzed in light of the relevant accessibility guidelines and the requirements of the disabled residents of the home. If the added square footage exceeds these specifications and guidelines, it would be reasonable to determine that only portions of the rooms added qualify for the exclusion. Except to the extent that the exclusion in Revenue and Taxation Code section 74.3 applies, the newly constructed portions of a residence should be reassessed. C 12/3/2009.

**610.0025 Drilling of Wells.** The drilling of oil, water, gas, and geothermal wells on the lien date should be valued like other projects under construction on the lien date. The cost-to-date, including prorated research and administrative costs, represents value as of the lien date. If, after completion, a well is incapable of producing, is uneconomic, or is unusable for the purpose for which it was drilled, its value should be recalculated to reflect such lack of economic viability. LTA 8/25/1981 (No. 81/95).

**610.0026 Drilling of Wells.** The drilling of a new well and the simultaneous filling of an old well constitute construction that may be treated as one and generate a single new net assessment. C 5/24/1994.

**610.0030 Dry Hole Wells.** The determination of the value of new construction of a new well requires the appraisal of the total unit, well and mineral reserves, prior to the allocation of value between the newly constructed well and the proved mineral reserves. When there are no future benefits anticipated from a newly drilled well, that is, no new reserves, no alternative uses, no operating benefits, etc., there is little, if any, value attributable to the new construction. LTA 4/23/1987 (No. 87/40).

**610.0033 Encroaching Improvements.** Upon assessment of encroaching improvements, only the new construction is assessed and given a new base year value; the land upon which the improvements lie retains its base year value. Even if the encroaching improvements had been misclassified as "land," the land underlying them would not be assessed to the encroacher upon either the completion of construction or a subsequent change in ownership. C 12/9/1998.

**610.0034 Exclusion for Damage or Destruction.** Timely reconstruction of golf course property due to damage gradually caused by the use of reclaimed water containing high levels of sodium, which accumulated in the soil over a period of time, constitutes, "new construction." Because the damage resulted from the ongoing watering and not from a single, distinct occurrence, the damage did not result from "misfortune or calamity" within the meaning of Revenue and Taxation Code section 70(c) and, therefore, does not qualify for exclusion from "new construction" under that provision. C 10/5/1999.

**610.0035 Fire Detection Equipment.** Such equipment is excluded from the definition of "newly constructed" if it is constructed or installed in an existing building, but such equipment is not excluded from the definition of "change in ownership." Upon a change in ownership of real property that has had such equipment installed, the new base year value

of the property should include the value of the existing fire detection equipment. C 12/15/1995.

**610.0036 Fire Suppression Systems.** The exclusion contained in Revenue and Taxation Code section 74 is not limited to fire suppression systems and equipment that protect structures only. As long as fire suppression systems and equipment that protect persons, fixtures, and personal property are installed in an existing building and meet the definitions contained in section 74(c), those systems should be excluded from new construction. C 1/29/2003.

**610.0040 Fixture Replacements.** A major rehabilitation of a fixture, which converts it to the substantial equivalent of a new fixture, as well as the installation of new fixtures in an improvement constitute new construction. Property classified as a fixture should be so classified, regardless of the setting in which it is found. For example, a fixture in an automobile repair shop is a fixture when situated in a service station. C 6/3/1987.

**610.0045 Improvement Alterations.** An increase in net income following the alteration of an improvement does not, in and of itself, satisfy the test for determining whether or not the alteration constitutes "new construction." C 8/6/1982.

**610.0050 Installation of Door in Common Wall.** Installation of a door in the common wall between a previously owned condominium and a newly acquired adjacent condominium does not constitute "new construction" as that term is defined in Revenue and Taxation Code section 70 and Property Tax Rule 463 insofar as the previously owned condominium is concerned. C 1/9/1987.

**610.0051 Land.** The reclamation of alkaline soil, whereby unproductive land is made usable for agricultural purposes, results in an alteration of the land and conversion thereof to a different use. Since such reclamation normally takes several years, it should be treated as construction in progress on the corresponding lien dates until completed. C 8/10/1981.

**610.0053 Licensed Manufactured Home.** The remodel and alteration of a licensed manufactured home, that remains subject to the Vehicle License Fee and does not become real property pursuant to the Health and Safety Code section 18551, do not constitute "new construction" or subject the manufactured home to local assessment. However, a foundation and accessories that are not part of and incorporated into the manufactured home would be assessable improvements to the real property. C 1/15/2002.

**610.0055 Maintenance.** A light industrial property recently sold. At the time of sale, its roof had a remaining service life of 3-4 years and did not comply with the current building code. After the sale, the new owner replaced the roof with a new roof with a designed life of 15 years. Routine maintenance that does not constitute a major rehabilitation or convert the property to a different use is not considered new construction under Revenue and Taxation Code section 70(a) and Property Tax Rule 463(b)(4). Since the new owner uses the property for substantially the same purposes as the old owner, the replacement of the roof is not considered new construction. C 2/23/2010.

**610.0060 New Construction: Examples.**

1. Land alterations that are new construction:
  - a. Land leveling
  - b. Extensive site preparation prior to building
  - c. Terracing of a hillside
  - d. Clearing of a brush-covered parcel

- e. Developing of alkali land for farming
  - f. Development of rural land into subdivision
  - g. Development of a gravel pit
2. Land alteration that may not qualify as new construction:
    - a. Releveling of existing row crop land
    - b. Pulling of orchard trees for replanting
    - c. Rebuilding of levees or ditches
    - d. Minor site preparation prior to building
  3. Improvement alterations that are new construction:
    - a. The complete renovation of an older structure or portion thereof
    - b. The conversion of a portion of a warehouse to office space
    - c. The conversion of a garage to living area
    - d. The conversion of an existing room to a bathroom
    - e. The conversion of a single-family residence to a duplex
  4. Improvement alterations that may not qualify as new construction (no change in use):
    - a. Maintenance and repairs
    - b. Redecorating
    - c. Replacement of existing kitchen or bathroom cabinets in a home
    - d. Replacement of a home air conditioner. LTA 11/30/1979 (No. 79/204).

[610.0063](#) **Off-Site Improvements.** Construction that is not an addition or alteration to the subject property is not "new construction" as that term is defined in Revenue and Taxation Code section 70 and Property Tax Rule 463, and costs related to such off-site construction should not be used as an indicator of the added "new construction" value to the subject property. The value enhancement resulting from the construction of an off-site improvement, such as a freeway offramp not located on the subject property, is only assessable when the subject property changes ownership. At that time, the enhanced value would be reflected in the marketplace and recognized in the sales price and the reappraisal. C 5/12/2000.

[610.0065](#) **Photovoltaic Electric Power Generating Plant.** As the result of Revenue and Taxation Code section 73, "newly constructed" as used in article XIII A section 2(a) of the California Constitution does not include the construction of any active solar energy system, including a photovoltaic electric power generating plant. C 2/18/1983.

[610.0070](#) **Planting of Bulbs.** Under Revenue and Taxation Code section 70, Property Tax Rules 463 and 466, and AH 567—*Assessment of Nursery Stock Handbook*, the planting of bulbs is new construction of the land, but neither the removal of bulbs and replanting in the same field nor the relocation of bulbs from one field to another, absent a change in ownership, is new construction. C 2/10/1983.

[610.0075](#) **Rebricking Furnace.** The rebricking of the throat area of a commercial furnace every three or four years constitutes routine maintenance; whereas the shut-down of the furnace every eight years for a month during which time 50 percent to 90 percent of the

furnace bricks are replaced constitutes "major rehabilitation" subject to reappraisal. C 6/9/1983.

**610.0080 Seismic Safety Exclusion.** Article XIII A, section 2(a) of the California Constitution and Revenue and Taxation Code section 70(d) provide that locally mandated building improvement or reconstruction related to seismic safety and required for unreinforced masonry-walled structures will be excluded from new construction for 15 years following the commencement or completion of the reconstruction. This means that qualifying reconstruction will be exempted from assessment in the first tax year in which it exists, whether as construction in progress or as completed work, and the following 14 tax years. The assessor shall enroll the excluded property at its current full cash value in the sixteenth tax year following the tax year in which the reconstruction or improvement was begun.

It is important that the property owner establish to the assessor's satisfaction that the work in progress is in fact required to comply with a local seismic safety ordinance, since only such work can be excluded. If the governing body will not issue a certificate of compliance to the property owner until the reconstruction is complete, he or she can still provide evidence to the assessor that the work is required by showing the original order to comply sent to him or her by the local agency and also a copy of the building permit authorizing the reconstruction or improvement of the building. This interim documentation would meet the statutory requirement.

If the property changes ownership during the 15 year period, a new base year value must be established and enrolled for the entire property, including the previously excluded portion of new construction, as of the date of the change in ownership, and a supplemental assessment must be enrolled. LTA 12/17/2001 (No. 2001/089).

**610.0085 Solar Energy System Exclusion.** There is excluded from new construction active solar energy systems, i.e., systems which use solar devices thermally isolated from living space or other areas where the energy is used to provide for the collection, storage or distribution of solar energy. Property that is merely used in conjunction with an active solar energy system, such as fences or miscellaneous use buildings, is not included. C 4/11/1986.

**610.0086 Solar Energy System Exclusion.** LTA 6/21/1991 (No. 91/51). (Deleted 2004)

**610.0087 Solar Energy System Exclusion.** The construction of a carport that has active solar panels installed on its roof is not excluded from assessment under Revenue and Taxation Code section 73 unless the carport itself is part of the active solar energy system. A carport that merely serves as the mounting point for solar panels is not considered part of the active solar energy system. Thus, such a structure is subject to assessment as new construction. C 1/17/2006.

**610.0088 Solar Energy System Exclusion.** An active solar energy system installed on another's real property may be considered a fixture depending on the intent of the parties and the extent of installation. Property Tax Rule 122.5 provides several tests for determining whether a piece of personal property becomes a fixture upon its attachment to land or an improvement. If an active solar energy system is classified as a fixture, it may qualify for exclusion from assessment as new construction under Revenue and Taxation Code section 73. C 9/17/2008.

**610.0095 Soundproofing Homes Near Airports.** Remodeling homes near airports to include soundproofing features such as the installation of insulation, storm windows, insulated walls constructed inside exterior walls, and special ventilating systems fall into the category of

replacement items, not new construction. If, however, at the same time such remodeling occurs a home is substantially upgraded and thereafter no longer resembles the original home, the building activity would constitute new construction and the value of the home over and above the value of the soundproofing features would be subject to revaluation. LTA 11/1/1985 (No. 85/113).

**610.0105 Tenant Improvements.** While existing improvements are not assessed at a higher value when tenant improvements are newly constructed, the new improvements are to be enrolled at their full cash value upon completion of construction.

One valid method of valuing new tenant improvements is the cost approach, which takes into account the assessee's out-of-pocket and imputed costs. C 11/30/1990.

**610.0115 Valuation.** A taxpayer purchased a vacant residential lot and had a home constructed by a licensed general contractor. None of the construction was done by the taxpayer. Upon completion of construction, the assessor properly considered two methods, the replacement cost and the comparable sales approaches, to estimate the fair market value of the new construction. The costs of construction may not equal the fair market value of a new residence. Therefore, county assessors should employ the valuation approach(es) that best estimates the value of new construction, not merely its cost. C 7/11/2005.

**610.0120 Wetland Mitigation Banks.** "Wetland mitigation banking" is a mandatory program administered by the Department of Fish and Game to mitigate any unavoidable impacts of development, by either purchasing existing wetlands nearby and preserving them into perpetuity or by creating new wetlands and similarly preserving them. Government agencies and/or private entrepreneurs may place an approved amount of wetland acreage into "banks" and assign a corresponding number of "credits" to each bank on a per-acre-of-wetland basis. One or more "credits" are then purchased by landowners in the area who, in order to obtain development permits, insure no net loss of wetlands is caused by their projects.

The creation of new wetlands in a wetland mitigation bank site is considered new construction under Revenue and Taxation Code section 70(a)(2) and Property Tax Rule 463(b)(2) as an alteration of land which constitutes a major rehabilitation or which converts the property to a different use. However, the sale of wetlands credits is not a reappraisable event, since the credits do not represent the transfer of a present interest in the wetland mitigation bank site real property but are comparable to offsite improvements adding value to the land.

On any lien date, the taxable value of a wetland mitigation bank should be the lower of (1) its adjusted base year value, including any value added for new construction completed in creating the wetland bank, or (2) its current market value, taking into account the restrictions on use and the eventual depletion of revenues from the sale of credits. Once all credits are sold, the owner's fee interest in the wetlands acreage would continue to be assessed. C 5/4/2000.