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April 10, 2007

No. 2007/021

TO COUNTY ASSESSORS:

REVENUE AND TAXATION CODE SECTION 68 –
INTERCOUNTY TRANSFERS

We have received several questions as to whether a taxpayer can transfer a base year value from property taken by governmental action to a comparable replacement property located in another county. The answer is yes. A property owner is not limited to finding a replacement property in the same county.

Article XIII A, section 2, subdivision (d), of the California Constitution provides that *change in ownership* does not include the acquisition of real property as a replacement for comparable property if the person acquiring the property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. This is implemented by Revenue and Taxation Code section 68 and Property Tax Rule 462.500.

Property is comparable if it is similar in size, utility, and function. Rule 462.500(c) defines *comparability* to provide that size is associated with value, not physical characteristics, and that two properties are similar in size if the full cash value of the replacement property does not exceed 120 percent of the award or purchase price paid for the property taken. See Letter To Assessors 2005/007 for further details on the qualifications for this base year value transfer.

Unlike other code sections that require a county ordinance to accept a base year value transfer from another county, there is no similar requirement under article XIII A, section 2, subdivision (d); section 68; or Rule 462.500. Thus, if an owner is displaced from property in California by governmental action, that property owner can acquire a comparable replacement property anywhere in California.

Sincerely,

/s/David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

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