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CORRECTED*

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TO COUNTY ASSESSORS:

REVENUE & TAXATION CODE SECTION 69.5: ADDITIONAL NEW CONSTRUCTION

Effective January 1, 2012, Senate Bill 947 (Stats. 2011, ch. 351) amends Revenue and Taxation Code[1] 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. Section 69.5 implements Propositions 60, 90, and 110 to allow homeowners who are age 55 and over or permanently and physically disabled to sell their principal place of residence and transfer its base year value to a replacement property of equal or lesser value that is purchased within two years of the sale.

This law change supersedes the timing requirements discussed in Assessors' Handbook Section 401, *Change in Ownership* (September 2010), Letter To Assessors 91/31, and question D2 of Letter To Assessors 2006/010.

Where a claim to transfer the base year value has been timely filed and granted, and subsequent new construction is performed on the replacement dwelling, section 69.5(h)(4) previously provided that the new construction could be included in the base year value that was transferred as long as the following requirements were met:

- The new construction was completed within two years of the date of sale of the original property;
- The owner notified the county assessor in writing within 30 days after completion of the new construction; and
- The full cash value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, was equal or less than the full cash value of the original property.

The timing and value requirements remain the same. However, SB 947 amends section 69.5(h)(4) to change the 30-day period to six months as follows:

> (4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the

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

replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within ~~30 days~~ six months after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

Where a claim to transfer the base year value has been filed and granted and subsequent new construction has been performed, the new construction must be completed within two years of the sale of the original property. Any construction completed after the two-year period will be treated as any other new construction, resulting in the assessment of the newly constructed portion.

In addition, the fair market value of the new construction plus the full cash value of the replacement dwelling on its date of purchase must be equal to or less than the full cash value of the original property on its date of sale. The "equal or lesser value" time adjustments in section 69.5(g)(5) (that is, the extra 5 and 10 percent allowances) are not to be applied to the original property when determining whether the combined value of the replacement dwelling and its new construction is equal to or less than the full cash value of the original property. Rather, section 69.5(h)(4) specifies that the value for comparison purposes is that found in section 69.5(g)(7), which provides that the "full cash value of the original property" is its new base year value adjusted by the inflation factor[2] for the period from the date of sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

Example 1 – Factoring

Original Property:	Sold	7/1/2009	$400,000
Replacement Dwelling:	Purchased	7/22/2009	$355,000
Claim filed and granted:		11/1/2009	
Bedroom/bath added:	Completed	6/15/2011 *	$47,000

Original Property's adjusted new base year value on date the new construction is complete: $403,012

The full cash value of the replacement dwelling plus the fair market value of the new construction ($402,000) is not more than the original property's adjusted base year value ($400,000 x 1.00753 2011 lien date factor). Therefore, the new construction would be excluded from assessment.

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[2] The percentage change from October to October in the California Consumer Price Index, not to exceed 2 percent.

* Date changed from 9/15/2011 to 6/15/2011.

<u>Example 2 – Non-qualifying Construction</u>

Original Property:	Sold	7/11/2011	$400,000
Replacement Dwelling:	Purchased	7/28/2011	$355,000
Claim Filed and granted:		9/1/2011	
Master bedroom/bath added:	Completed	12/1/2011	$55,000

The full cash value of the replacement dwelling plus the fair market value of the new construction ($410,000) is more than the original property's new base year value ($400,000). Therefore, the new construction would be subject to assessment. Further, since section 69.5 does not provide for partial relief, 100 percent of the value of the new construction ($55,000) would be given a new base year value.

After construction has been completed, the taxpayer must notify the assessor in writing within six months after the completion of construction that the taxpayer wants the construction to be included in the transferred base year value. While this may be done by filing another claim, section 69.5(h)(4) simply requires that the notification be in writing and, unlike the requirements for the initial base year value transfer, does not specifically require a claim be filed.

Once a base year value has been transferred and the county has reported that transfer to the State Board of Equalization for duplicate claim purposes, any excluded new construction should not be additionally reported as this will result in a duplicate listing for the claimant.

SB 947 also makes changes to the disaster relief provisions of section 69.5; however, these changes are discussed in Letter To Assessors 2012/012. If you have any questions regarding these changes to section 69.5, please contact the County-Assessed Properties Division at 916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

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