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PROPERTY AND SPECIAL TAXES DEPARTMENT
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No. 2014/005

January 17, 2014

TO COUNTY ASSESSORS:

BUILDERS' EXCLUSION—ASSESSOR NOTIFICATION

A builder who constructs property for resale can file a claim with a county assessor to exclude the property from a supplemental assessment for the completed construction. This is commonly called a *builders' exclusion*. While the law generally requires a builder to file a claim for the exclusion, in the case of a builder that constructs properties in residential subdivisions, the county assessor can grant the exclusion automatically and the builder need not file a claim for each property in the subdivision. Prior to January 1, 2014, a builder who filed a claim for the builders' exclusion was required to notify the county assessor within 45 days of certain events that make the property ineligible to continue benefiting from the delayed reassessment the builders' exclusion provides, while a residential subdivision builder granted the exclusion automatically was not required to provide such notice.

Effective January 1, 2014, Senate Bill 825 (Stats. 2013, ch. 607) amended section 75.12 of the Revenue and Taxation Code by providing that residential subdivision developers automatically receiving the builders' exclusion must also notify the county assessor when a subdivision's property becomes ineligible for the exclusion. A residential subdivision builder that automatically receives the exclusion will now have to notify the county assessor of any event that makes the property ineligible to continue benefiting from a delayed reassessment, just as has been historically required of a builder who filed a claim for the builders' 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, and include selling the property using an unrecorded contract of sale, using or occupying the property, or renting or leasing the property.

Enclosed is a copy of section 75.12 with changes represented by italics and strikeout. If you have any questions regarding these provisions, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:mab
Enclosure

Effective January 1, 2014, section 75.12 of the Revenue and Taxation Code is amended to read:

75.12. (a) For the purposes of this chapter, new construction shall be deemed completed on the earliest of the following dates:

(1) (A) The date upon which the new construction is available for use by the owner, unless the owner does not intend to occupy or use the property. 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.

(B) Notwithstanding subparagraph (A), an owner is not required to provide the notice described in subparagraph (A) and it is rebuttably presumed that a supplemental assessment is not required on property described in clauses (i) to (iii), inclusive, if the owner's property meets all of the following conditions:

(i) The property is subdivided into five or more parcels in accordance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or any successor to that law.

(ii) A map describing the parcels has been recorded.

(iii) Zoning regulations that are applicable to the parcels or building permits for the parcels require that, except for parcels dedicated for public use, single-family residences will be constructed on the parcels.

(2) If the owner does not intend to occupy or use the property, the date the property is occupied or used with the owner's consent.

(3) If the property cannot be functionally used or occupied on the date it is available for use considering the type of property and any special facts and circumstances affecting use or occupancy, the date the property can be functionally used or occupied.

(b) For the purposes of this section:

(1) "Occupy or use" means the occupancy or use by the owner, including the rental or lease of the property, except as provided in paragraph (2).

(2) Property shall not be considered occupied or used by the owner or with the owner's consent if the occupancy or use is incidental to an offer for a change of ownership, including, but not limited to, use of the property as a model home.

(c) The board, after consultation with the California ~~Assessors~~ *Assessors'* Association, shall adopt rules and regulations defining the date of completion of new construction in accordance with this section. The rules and regulations shall not define the date of completion in a manner that the date of completion of all new construction is postponed until the following lien date.

(d) Nothing in this section shall preclude the reassessment of that property on the assessment roll for January 1 following the date of completion.

(e) The owner of any property who notifies the assessor pursuant to *subparagraph (A) of paragraph (1) of subdivision (a)* that he or she does not intend to occupy or use the property *and the owner of any property that meets all of the conditions under subparagraph (B) of paragraph*

(1) of subdivision (a) shall notify the assessor within 45 days of the earliest date that any of the following occur:

(1) The property changes ownership pursuant to an unrecorded contract of sale.

(2) The property is leased or rented.

(3) The property is occupied or used by the owner for any purpose other than provided in subdivision (b).

(4) The property is occupied or used with the owner's consent for any purpose other than provided in subdivision (b).

(f) The failure to provide the assessor the notice required by subdivision (e), whether requested or not, shall result in a penalty in the amount specified in Section 482.