



STATE BOARD OF EQUALIZATION  
PROPERTY AND SPECIAL TAXES DEPARTMENT  
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Executive Director

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No. 2009/024

TO COUNTY ASSESSORS:

DECLINE IN VALUE: EXCLUDED NEW CONSTRUCTION

Under Revenue and Taxation Code<sup>1</sup> section 75.10, the assessor must appraise new construction at its full cash value on the date the construction is completed. However, under section 70(c) and sections 73 through 74.7, certain types of construction may be excluded from assessment as new construction. Recently the issue arose on how to treat excluded new construction when making an estimate of full cash value for decline in value purposes.

Under section 51, the assessor is to annually enroll the lower of a property's factored base year value or its full cash value as of the lien date, as defined in section 110. Section 110 provides in pertinent part that "full cash value" is "the amount of cash or its equivalent that property would bring *if exposed for sale* in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other..." (emphasis added).

Even though certain additions to existing buildings may be excluded from the definition of "new construction," such exclusions do not extend through a subsequent reassessment prompted by a change in ownership of the real property. When a property with excluded new construction sells, the excluded new construction becomes assessable along with everything else on the property. Since an estimate of full cash value for decline-in-value purposes is made as if the property was exposed for sale, the full cash value should not be reduced by the value of any excluded new construction.

For example, if a property owner installs a qualified active solar energy system, the system is excluded from assessment as "new construction" under section 73. In addition, the first buyer of a property with a qualified active solar energy system may claim the active solar energy system exclusion if the builder/developer did not receive the exclusion. Subsequently when the property sells to another person or entity, the system becomes assessable along with everything else on the property. Likewise, the value of the active solar energy system that was excluded from the meaning of "new construction" upon completion should be included in an estimate of full cash value made because of a decline-in-value situation.

<sup>1</sup> All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

If you have any questions regarding decline in value or excluded new construction, please contact our Assessment Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau  
Deputy Director  
Property and Special Taxes Department

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