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No. 2012/010

TO COUNTY ASSESSORS:

SUMMARY OF 2011 PROPERTY TAXES LEGISLATION

This is a summary of 2011 legislation affecting property taxes. All bills are effective January 1, 2012 unless otherwise specified.

ABx1 15, Chapter 3 of the 2011-12 First Extraordinary Session, Effective June 28, 2011
Amends section 73 of the Revenue and Taxation Code.

Active Solar Energy System New Construction Exclusion. Clarifies that the exclusion applies only until the property undergoes a subsequent change in ownership. Clarifies that qualified systems completed prior to sunset date remain excluded after the sunset date until there is a subsequent change in ownership. Provides, via uncodified legislative findings and declarations, that the exclusion includes systems constructed as freestanding or parking lot canopies. Provides, via uncodified legislative findings and declarations, that in cases where a newly constructed active solar energy system is sold in a sale-leaseback arrangement or partnership flip structure arrangement, the new construction exclusion applies if (1) the system is newly constructed or added and (2) no other taxpayer has received the exclusion for the same system.¹

AB 75, Chapter 269

Amends sections 17533.6 and 17537.9 of the Business and Professions Code; amends section 1195 of the Civil Code; amends section 3505 of the Commercial Code; and amends sections 8205, 8208, 8211, and 27287 of, and adds section 12181 to, the Government Code.

Deceptive Business Solicitations. Prohibits the use of the term "assessor" in the title, trade, or brand name of any solicitation that reasonably could be interpreted or construed as implying a governmental connection. Prohibits additional business names from being used by assessment reduction filing service firms and modifies font size requirements on disclosures printed on advertisements.

AB 188, Chapter 202

Amends sections 205.5 and 279 of the Revenue and Taxation Code.

Disabled Veterans' Exemption. Provides that an unmarried surviving spouse receiving the disabled veterans' exemption on their home will continue to be eligible for the exemption if he or she is confined to a hospital or care facility, provided the home is not rented or leased.

¹ See Letter To Assessors 2011/039 for proposed guidelines on the new construction exclusion for active solar energy systems.

Consolidates into one section of law the effective and termination dates of the exemption for specified situations. A separate Letter To Assessors on this issue will be forthcoming.

AB 563, Chapter 320

Adds section 408.4 to the Revenue and Taxation Code.

Assessor Records. Allows designated employees of a city's finance department to access certain confidential assessor records when that office is conducting an investigation to determine whether a documentary transfer tax should be imposed for an unrecorded change in control or change in ownership of property. Specifies that the information provided does not become a public record and shall not be open to public inspection. Prohibits assessor from disclosing social security numbers to the city employee. Requires the city to reimburse the assessor for any costs incurred in disclosing, furnishing, or permitting access to this information. A separate Letter To Assessors on this issue will be forthcoming.

AB 654, Chapter 278

Amends sections 50281, 50281.1, 50282, 50284, and 50287 of the Government Code.

Mills Act Contracts. Deletes the requirement that the Board of Equalization or county assessor inspect historical property under contract for purposes of monitoring contract compliance and instead requires the inspection of the interior and exterior of the premises be done by a party appointed by the city, county, or city and county. Requires contracts to be recorded within six months of entering into the contract. If a property owner has breached the contract conditions or allows the property to deteriorate so that it no longer meets the requirements of a historical property, requires the legislative body to either cancel the contract or bring court action to enforce the contract. Restricts court action to the parties to the contract.

AB 703, Chapter 575, Effective October 8, 2011

Amends section 214.02 of the Revenue and Taxation Code.

Welfare Exemption. Extends the sunset date of the exemption for property in its natural state from January 1, 2013 to January 1, 2023.

AB 711, Chapter 220

Amends section 167 of the Revenue and Taxation Code.

Assessment Appeal Burden of Proof. Shifts the burden of proof to a taxpayer in an assessment appeal hearing of an owner-occupied single-family dwelling if that residence is a vacation or secondary home. A separate Letter To Assessors on this issue will be forthcoming.

AB 820, Chapter 207

Amends section 162 of, and adds section 162.1 to, the Revenue and Taxation Code.

Fee. Allows a county board of supervisors to change the fee to prepare a certificate of payment showing taxes paid from \$1 to an amount sufficient to cover the actual and reasonable costs incurred.

AB 1090, Chapter 369

Amends section 53684 of the Government Code; and adds Part 10.6 (commencing with section 20800) to Division 2 of the Revenue and Taxation Code.

Senior Citizens and Disabled Citizens Property Tax Postponement Program. Replaces the State Controller's Senior Citizens and Disabled Citizens Property Tax Postponement Program with an optional County Deferred Property Tax Program for Senior Citizens and Disabled Citizens. Allows a participating county to defer a claimant's property taxes retroactively, for property taxes due on or before February 20, 2011, and prospectively, as specified. Upon receipt of a notice of lien, requires assessor to note on the assessment records that the taxes on the property have been deferred and forward the notice of lien to the county recorder. Requires assessor to notify the county tax collector when property subject to deferral subsequently undergoes a change in ownership.

AB 1265, Chapter 90, Effective July 15, 2011

Amends, repeals, and adds sections 16142, 16142.1, and 51244 to, adds section 51244.4 to, and adds and repeals section 51244.3 of the Government Code.

Williamson Act Contracts. Authorizes a county, until January 1, 2016, in any fiscal year in which payments authorized for reimbursement to a county for lost revenue from Williamson Act contracts is less than one-half of the county's actual foregone general fund property tax revenue, to revise the terms for new contracts. Allows a landowner to file for nonrenewal instead of accepting a shortened contract. Provides that any increased revenues under the new contract will be paid to the county. A separate Letter To Assessors on this issue will be forthcoming.

SB 80, Chapter 11, Effective March 24, 2011

Among others, amends sections 16142, 16142.1, 16148, and 51244 of, and repeals section 51244.3 of the Government Code.

Williamson Act Contracts. Repeals contract provisions implemented by Chapter 722 of the Statutes of 2010 (reinstated by AB 1265). Repeals the \$10 million Williamson Act subvention payment to counties. A separate Letter To Assessors on this issue will be forthcoming.

SB 507, Chapter 708

Amends sections 480, 480.1, 480.2, 482, and 483 of the Revenue and Taxation Code.

Real Property Transfers. Related to an assessor's written request to a property owner to file a change in ownership statement:

- Increases the penalty for failure to file the statement on property with a value of \$2.5 million or more as follows:
 - Increases from \$2,500 to \$20,000 the maximum penalty on property not eligible for the homeowners' exemption.
 - Increases from \$2,500 to \$5,000 the maximum penalty on property eligible for the homeowners' exemption.
- Increases from 45 to 90 the number of days to file the statement.
- Specifies the statement identify the real property or manufactured home for which the request is being made.

- Specifies the address to use when mailing the request.
- Specifies the address to use when mailing a penalty notice for failure to file.
- Requires penalty notices to identify the parcel or parcels for which the penalty is assessed.
- Specifies that the date of the mailing, not the date of the written request, begins the 90 day period within which to file the statement.
- Specifies that the postmark date will serve as the date the property owner files the statement.

Legal Entity Ownership Interest Transfers. Related to the legal entity change in control and ownership statement that must be filed with the State Board of Equalization (Board):

- Increases from 45 to 90 the number of days a legal entity has to report a change in ownership or change in control to the Board.
- Increases from 45 to 90 the number of days a legal entity has to file a statement with the Board before a penalty will be levied for failure to file a statement after a written request.
- Clarifies that the penalty for failure to file the statement with the Board is to be levied by the assessor.

Penalty Abatement Appeals. Expressly provides that either the county board of equalization or the assessment appeals board will hear penalty abatement appeals for late-filed or failure-to-file penalty issues, rather than the county board of supervisors.

Penalty Abatement by Assessor. Relating only to legal entity change in control and ownership statements required to be filed with the Board, requires the assessor to abate the penalty if the assessor determines that a written request by the Board to file a statement was based on erroneous information.

A separate Letter To Assessors on this legislation will be forthcoming.

SB 618, Chapter 596

Amends sections 2805, 2835, 3511, 4700, 5050, and 5515 of the Fish and Game Code; adds section 51255.1 to, and adds Chapter 6.9 (commencing with section 51190) to Part 1 of Division 1 of Title 5 of the Government Code; and amends section 402.1 of the Revenue and Taxation Code.

Williamson Act – Solar Use Easement. Allows property owners and counties or cities that are currently parties to a Williamson Act contract to mutually agree to rescind the contract on parcels of land meeting certain criteria and simultaneously enter into a "solar-use easement." Provides that a solar-use easement is an enforceable land use restriction and that parcels subject to a solar-use easement are to be assessed pursuant to Revenue and Taxation Code section 402.1 during the term of the easement. Requires the assessor to determine the fair market value of land as though free of the easement restriction for purposes of the rescission fee (6.25 percent for property in the Williamson Act; 12.5 percent for property in a farmland security zone). Requires the assessor to determine the fair market value of a parcel as though free of the easement restriction—should the landowner subsequently seek to terminate the easement—in order to determine a solar-use easement termination fee (12.5 percent of the property's then fair market value). A separate Letter To Assessors on this legislation will be forthcoming.

SB 668, Chapter 254

Adds section 51257.5 to the Government Code.

Williamson Act. Allows a city or county to accept contributions from a nonprofit land-trust organization, a nonprofit entity, or a public agency for specific land that is under a Williamson Act contract to supplement the city or county's foregone property tax revenues, if the state fails to make all or part of its subvention payments to the city or county. A separate Letter To Assessors on this legislation will be forthcoming.

SB 947, Chapter 351

Amends sections 63.1, 69, 69.3, 69.5, 74.5, 74.6, 276.2, 278, 483, 531.1, 830, 862, 1150, 1154, 2821, 4831, 5303, 11551, and 11596 of, adds section 271.5 to, and repeals section 75.23 of the Revenue and Taxation Code.

Change in Ownership Exclusion: Parent-Child and Grandparent-Grandchild Transfers. Provides that the exclusion applies to a transfer of a unit or lot within a cooperative housing corporation. A separate Letter To Assessors on this topic will be forthcoming. §63.1

Disaster Relief: Base Year Value Transfer. Clarifies that property is "substantially damaged or destroyed" if damage to either land or improvements meets the 50 percent threshold. §§69, 69.3, 69.5

Change in Ownership Exclusion: Over 55/Disabled Base Year Value Transfer. Expands the period from 30 days to 6 months for taxpayers to request that additional new construction be included in the base year value that was previously transferred. A separate Letter To Assessors on this topic will be forthcoming. §69.5

New Construction Exclusion: Seismic Safety. Updates the citations to reference the current model building codes used by industry. §74.5

New Construction Exclusion: Disabled Access. Corrects the reference to the California Constitution as amended by Proposition 13 of 2010. §74.6

Exemptions: College, Cemetery, Church, Religious, Exhibition, Veterans' Organization, Tribal Housing, and Welfare. Clarifies that a property tax exemption ceases as of the date of sale or transfer of the real property. A separate Letter To Assessors on this topic will be forthcoming. §§75.23, 271.5, 531.1

Disabled Veterans' Exemption. A separate Letter To Assessors on this topic will be forthcoming.

- Extends the time a disabled veteran has to file a claim to receive the full amount of the exemption on a newly acquired property. §276.2
- Specifies that the annual notice is to be mailed prior to lien date to claimants who received the exemption in the immediately preceding year, similar to the annual notice requirements of other exemptions. §276.2

Change in Ownership Statement Penalty Appeals. Provides that an assessee must appeal a penalty for failure to timely file a change in ownership statement with the local board of equalization or assessment appeals board, rather than the county board of supervisors. §483 [These changes to section 483 were superseded by SB 507.]

Aircraft. Updates the federal law code references. Also updates the referenced federal agency to the Federal Aviation Administration and deletes the reference to the California Public Utilities Commission. A separate Letter To Assessors on this topic will be forthcoming. §§1150, 1154, 5303

Separate Assessment Requests. Provides that a board of supervisors may accept applications for requests for separate assessment between July 1 and March 31. §2821

Roll Corrections: Decline in Value. Extends the one-year period after the close of the roll that an assessor has to make corrections for a decline in value to floating homes and manufactured homes. A separate Letter To Assessors on this topic will be forthcoming. §4831

SB 948, Chapter 352

Among others, amends sections 408 and 620 of the Revenue and Taxation Code.

Assessor Records. Upon written request, allows county tax collector access to certain confidential assessor records for the purpose of collecting delinquent taxes. Specifies that the information provided does not become a public record and shall not be open to public inspection. Prohibits the assessor from disclosing social security numbers. Requires the tax collector to reimburse the assessor for costs incurred in disclosing, furnishing, or permitting access to this information. A separate Letter To Assessors on this topic will be forthcoming. §408

Payment of Taxes Under Protest. Provides that a protest is made by filing a petition for assessment reduction with the clerk of the county board of supervisors. Removes the requirement that a protest be filed together with the payment of the taxes or the first installment. §620

Vetoed Bill

ABx1 34 – Reinstatement of State Controller's Property Tax Postponement Program

All bills are posted on the Legislative Counsel's website at www.leginfo.ca.gov/bilinfo.html. The Board of Equalization's bill analyses are posted at www.boe.ca.gov/legdiv/legcont.htm. If you have any questions regarding the application of these measures, 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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