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No. 2021/063

December 23, 2021

TO COUNTY ASSESSORS:

DISASTER RELIEF INTRACOUNTY BASE YEAR VALUE TRANSFERS

Effective October 5, 2021, [Senate Bill 303](#) (Stats. 2021, ch. 540) amends [Revenue and Taxation Code \(RTC\) section 69](#), which implements the disaster relief intracounty base year value transfers.

RTC section 69 allows an owner of real property, whose property had been substantially damaged or destroyed in a disaster for which the Governor proclaimed a state of emergency, to transfer the base year value of that damaged property to a comparable replacement property acquired or newly constructed in the same county (intracounty) within five years of the date of the disaster. This base year value transfer is available for any type of real property, as long as the damaged property and the replacement property are of the same property type.¹

Senate Bill 303 amends section 69 to extend the five-year period to acquire or newly construct replacement property to seven years under either of the following conditions:

- If the last day to transfer the base year value was on or after March 4, 2020, but on or before the earlier of either the COVID-19 emergency termination date or March 4, 2022.
- If the disaster occurs on or after March 4, 2020, but on or before the earlier of the COVID-19 emergency termination date or March 4, 2022.

The "COVID-19 emergency termination date" is the date the Governor proclaims the termination of the emergency related to the COVID-19 pandemic that was proclaimed on March 4, 2020, pursuant to the California Emergency Services Act. As of the date of this letter, the Governor has not yet terminated the emergency proclamation for the COVID-19 pandemic.

Senate Bill 303 makes these provision applicable to the determination of base year values for the 2015-16 fiscal year and fiscal years thereafter.

In addition, SB 303 clarifies that "qualified property" is property that is substantially damaged or destroyed by a disaster that is proclaimed by the Governor. Under Government Code sections 8558 and 8625, the Governor is authorized to proclaim a state of emergency under specified circumstances, including the existence of conditions of disaster.

¹ For more specific requirements related to RTC section 69, see Letter To Assessors No. 2021/026 on the State Board of Equalization's website at: <https://www.boe.ca.gov/proptaxes/pdf/lta21026.pdf>

A copy of amended RTC section 69, with the changes noted in italics format, is enclosed. If you have any questions regarding these provisions, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:jb
Enclosure

Section 69 of the Revenue and Taxation Code is amended to read:

69. (a) Notwithstanding any other law, pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county, which is acquired or newly constructed within five years after the disaster, including in the case of the Northridge earthquake, as a replacement for the substantially damaged or destroyed property. At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value. However, the substantially damaged or destroyed property shall retain its base year value notwithstanding the transfer authorized by this section. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base year value of the replacement property acquired shall be determined in accordance with this section.

The assessor shall use the following procedure in determining the appropriate replacement base year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base year value of the property substantially damaged or destroyed. The sum of these amounts shall become the replacement property's replacement base year value.

(3) If the full cash value of the comparable replacement property is less than the adjusted base year value of the property substantially damaged or destroyed, then that lower value shall become the replacement property's base year value.

(4) The full cash value of the property substantially damaged or destroyed shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(c) For purposes of this section:

(1) Property is substantially damaged or destroyed if either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land's or the improvement's full cash value immediately prior to the disaster. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces.

(A) Property is similar in function if the replacement property is subject to similar governmental restrictions, such as zoning.

(B) Both the size and utility of property are interrelated and associated with value. Property is similar in size and utility only to the extent that the replacement property is, or is intended to be, used in the same manner as the property substantially damaged or destroyed and its full cash value does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed.

(i) A replacement property or any portion thereof used or intended to be used for a purpose substantially different than the use made of the property substantially damaged or destroyed shall to the extent of the dissimilar use be considered not similar in utility.

(ii) A replacement property or portion thereof that satisfies the use requirement but has a full cash value that exceeds 120 percent of the full cash value of the property substantially damaged or destroyed shall be considered, to the extent of the excess, not similar in utility and size.

(C) To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property, or portion thereof, shall be considered to have undergone a change in ownership when the replacement property is acquired or newly constructed.

(3) “Disaster” means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(d) (1) This section applies to any comparable replacement property acquired or newly constructed on or after July 1, 1985.

(2) The amendments made by Chapter 1053 of the Statutes of 1993 apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(3) The amendments made by Chapter 317 of the Statutes of 2006 apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after July 1, 2003, and to the determination of base year values for the 2003–04 fiscal year and fiscal years thereafter.

(e) Only the owner or owners of the property substantially damaged or destroyed, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section. Relief under this section shall be granted to an owner or owners of substantially damaged or destroyed property obtaining title to replacement property. The acquisition of an ownership interest in a legal entity, which directly or indirectly owns real property, is not an acquisition of comparable property.

(f) Notwithstanding any other law, the board of supervisors of the County of San Diego may by ordinance extend the time period specified in subdivision (a) to transfer the base year value of property that is substantially damaged or destroyed by the Cedar Fire that commenced in October 2003, as declared by the Governor, to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed

property by two years. This subdivision shall apply to the determination of base year values for the 2003–04 fiscal year and fiscal years thereafter.

(g) The amendments made to this section by the act adding this subdivision shall apply commencing with the lien date for the 2012–13 fiscal year.

(h) (1) Notwithstanding any other law, the time period specified in subdivision (a) to transfer the base year value of qualified property to comparable property, that is within the same county and that is acquired or newly constructed as a replacement for the qualified property, is extended by two years if the last day to transfer the base year value of the qualified property was on or after March 4, 2020, but on or before the COVID-19 emergency termination date or March 4, 2022, whichever is sooner.

(2) Notwithstanding any other law, the time period specified in subdivision (a) to transfer the base year value of qualified property to comparable property, that is within the same county and that is acquired or newly constructed as a replacement for the qualified property, is extended by two years if the qualified property was substantially damaged or destroyed on or after March 4, 2020, but on or before the COVID-19 emergency termination date or March 4, 2022, whichever is sooner.

(3) This subdivision shall apply to the determination of base year values for the 2015–16 fiscal year and fiscal years thereafter.

(4) For purposes of this subdivision, both of the following definitions apply:

(A) “COVID-19 emergency termination date” shall be the date the Governor proclaims the termination of the emergency related to the COVID-19 pandemic that was proclaimed on March 4, 2020, pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(B) “Qualified property” means property that is substantially damaged or destroyed, as described in paragraph (1) of subdivision (c), by a disaster that is proclaimed by the Governor.