



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Amended:	01/07/08	Bill No:	<u>AB 1451</u>
Tax:	Property	Author:	Leno, et al
Related Bills:			

BILL SUMMARY

This bill would, with respect to the new construction exclusion for active solar energy systems:

- Extend the sunset date from the 2008-09 fiscal year to the 2015-16 fiscal year.
- Allow the value of the exclusion to apply to the initial purchaser of a new building, as specified.

SUMMARY OF AMENDMENTS

The amendments since the previous analysis delete provisions that would have extended the exclusion to certain transmission and distribution equipment.

ANALYSIS

CURRENT LAW

New Construction Exclusion – Active Solar Energy Systems. In general, when real property is “newly constructed,” it is appraised and assessed for property tax purposes. (Cal. Const. Art. XIII A, Sec. 2(a)) The California Constitution, Article XIII A, Section 2(c)(1), grants the Legislature the authority to exclude the construction or addition of any active solar energy system from the definition of “newly constructed.” Section 73 of the Revenue and Taxation Code is the implementing statute for this new construction exclusion. The current property tax exclusion for new active solar energy systems is scheduled to sunset after the 2008-09 fiscal year. However, after the exclusion sunsets, any solar energy system constructed remains exempt from property tax for so long as the property does not change ownership.

Change in Ownership Terminates New Construction Exclusion. After a change in ownership, the entire property, including the portion of the property (or additional value) previously exempted from taxation under the new construction exclusion, is subject to reassessment to its current market value. Consequently, in the case of properties constructed for immediate resale, there is little, if any, tax benefit under the new construction exclusion.

PROPOSED LAW

Sunset Date. This bill would extend the new construction exclusion to the 2015-16 fiscal year and provides for an automatic repeal of its provisions on January 1, 2017.

Solar Energy Systems Incorporated into New Buildings – Exclusion Extended to Initial Purchaser. In the case where a solar energy system is incorporated by an owner-builder in the initial construction of a new building that the owner-builder does not intend to occupy or use (i.e., offered for sale, such as new homes in a subdivision), the exclusion would apply to the building’s first buyer if the owner-builder did not request and receive the exclusion for the same active solar energy system and only if the initial

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buyer purchased the new building prior to that building becoming subject to reassessment to the owner-builder, as described in subdivision (d) of Section 75.12. This provision of law essentially provides that when the builder's exclusion from supplemental assessment for completion of new construction is being claimed, thereby delaying an immediate reassessment of the property as of the actual date of completion for purposes of the supplemental roll, then any construction deemed to be completed on the following lien date would be fully assessed for purposes of the regular assessment roll.

If the exclusion is eligible to be extended to the initial purchaser, then in determining the base year value to be established as a result of the change in ownership, the base year value would be reduced by the portion of the purchase price that is attributable to the active solar energy system. Thereafter, any subsequent change in ownership of the property would end the exclusion of the value of the active solar energy system from property tax. If the solar energy system received any rebates, appropriate adjustments would be made.

The Board would be required to prescribe the claim form, in consultation with the California Assessors' Association, to continue the new construction exclusion after the change in ownership.

Effective Date. The amendments made by this bill are prospective and its provisions would apply beginning with any qualifying improvements completed on or after January 1, 2008.

IN GENERAL

Property Tax System. Article XIII, Section 1 of the California Constitution provides that all property is taxable, at the same percentage of "fair market value," unless specifically exempted, or authorized for exemption, within the Constitution. Article XIII A, Section 2 of the California Constitution defines "fair market value" as the assessor's opinion of value for the 1975-76 tax bill, or, thereafter, the appraised value of property when purchased, newly constructed, or a change in ownership has occurred. This value is generally referred to as the "base year value." Barring actual physical new construction or a change in ownership, annual adjustments to the base year value are limited to 2% or the rate of inflation, whichever is less. Article XIII A, Section 2 provides for certain exclusions from the meaning of "change in ownership" and "newly constructed" as approved by voters via constitutional amendments.

New Construction. The constitution does not define the term "new construction" or "newly constructed." Revenue and Taxation Section 70 defines these terms, in part, to mean:

Any addition to real property, whether land or improvements (including fixtures), since the last lien date.

Any alteration of land or any improvements (including fixtures) since the last lien date that constitutes a "major rehabilitation" or that converts the property to a different use.

A major rehabilitation is any rehabilitation, renovation, or modernization that converts an improvement or fixture to the substantial equivalent of a new improvement or fixture.

With respect to any new construction, the law requires the assessor to determine the added value upon completion. The value is established as the base year value for those

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