



STATE BOARD OF EQUALIZATION

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Executive Secretary

February 11, 1983

No. 83/19

TO COUNTY ASSESSORS, COUNTY COUNSELS,
ASSESSMENT APPEALS BOARDS AND
OTHER INTERESTED PARTIES:

PROPERTY TAXES RULE 462.5

Enclosed is a notice of public hearing to be held Tuesday, April 5, 1983, at 2:00 p.m., in Room 102, 1020 N Street, Sacramento, California, on proposed Property Taxes Rule 462.5, Change in Ownership of Real Property Acquired to Replace Property Taken by Governmental Action or Eminent Domain Proceedings.

Proposition 3, which was approved by the voters on June 8, 1982, amends Section 2(d) of Article XIII A of the California Constitution to exclude from the definition of "change in ownership" the acquisition of real property as a replacement for comparable real property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action resulting in a judgment of inverse condemnation. Section 68 of the Revenue and Taxation Code was added by Assembly Bill 3382 (Chapter 1465, Statutes of 1982) to implement this new constitutional issue. However, the new statute specifically addresses only the issues of base year value and statute of limitations. Both the Constitution and the statutory law are silent as to how county assessors are to administer this new constitutional provision. This proposed regulation would provide for uniform procedures to govern county assessors in administering the new change in ownership provision and would address various definitional and assessment issues not otherwise provided for by law.

Written comments for the Board's consideration or requests to present testimony at the public hearing should be directed to me at the above address. Questions regarding the regulation should be directed to Lawrence A. Augusta, Assistant Chief Counsel, Property Taxes, at (916) 445-4588 or Margaret Shedd, Staff Counsel, at (916) 323-7712.

Sincerely,

Janice Masterton
Assistant to Executive Secretary

JM:ms
Enclosure

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Section 68 of the Revenue and Taxation Code and Section 2(d) of Article XIII A of the California Constitution, proposes to adopt Regulation 462.5 in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on April 5, 1983. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: Proposition 3, which was approved by the voters on June 8, 1982, amends Section 2(d) of Article XIII A of the California Constitution to exclude from the definition of "change in ownership" the acquisition of real property as a replacement for

comparable real property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action resulting in a judgment of inverse condemnation. Section 68 of the Revenue and Taxation Code was added by Assembly Bill 3382 (Chapter 1465, Statutes of 1982) to implement this new constitutional issue. However, the new statute specifically addresses only the issues of base year value and statute of limitations. Both the Constitution and the statutory law are silent as to how county assessors are to administer this new constitutional provision. This proposed regulation would provide for uniform procedures to govern county assessors in administering the new change in ownership provision and would address various definitional and assessment issues not otherwise provided for by law.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change does not impose a mandate on local agencies or school districts and will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State. The cost impact on private persons or businesses is expected to be insignificant. This proposal will not have a significant adverse economic impact on small businesses.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by April 5, 1983; written statements or arguments are requested by March 16, 1983.

STATEMENT OF REASONS; EXPRESS TERMS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in writing this regulation, and the express terms of the proposed regulation, both of which are available to the public upon request.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rule making file after the close of the public hearing these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days after the public hearing.

Following the hearing, the State Board of Equalization, upon its own motion, or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: January 28, 1983

STATE BOARD OF EQUALIZATION

Douglas D. Bell

Douglas D. Bell
Executive Secretary

Rule 462.5. CHANGE IN OWNERSHIP OF REAL PROPERTY ACQUIRED
TO REPLACE PROPERTY TAKEN BY GOVERNMENTAL
ACTION OR EMINENT DOMAIN PROCEEDINGS.

Authority: Section 15606, Government Code

Reference: Section 68, Revenue and Taxation Code

(a) GENERAL. Section 2(d) of Article XIII A of the California Constitution and Section 68 of the Revenue and Taxation Code generally provide that property tax relief shall be granted to any real property owner who acquires comparable replacement property after having been displaced by governmental action or eminent domain proceedings.

For purposes of implementing this property tax relief, the term "change in ownership" shall not include the acquisition of real property as replacement for comparable property if the person acquiring the real property has been displaced from property in this state by eminent domain proceedings instituted by either a public or non-public entity, by acquisition by a public entity, or by governmental action which has resulted in a judgment of inverse condemnation. Commencement of eminent domain proceedings (i.e., the filing of a complaint in court) shall be evidence of qualification for relief.

The adjusted base year value of the property acquired by the displaced person shall be the lower of (1) the fair market value of the property acquired or (2) the adjusted base year value of the property from which the person was displaced.

(b) COMPARABILITY. Real property taken by governmental action or eminent domain proceedings shall be deemed comparable to the property replaced if it is similar in size, utility, and function.

(1) SIZE. Replacement property shall be considered comparable in size if, in terms of square footage, it is smaller than, equal to, or not more than twice (200%) as large as the property taken. Full relief shall be granted if the replacement property is, in terms of square footage, smaller than, equal to, or not more than 110% of the size of the property taken. Replacement property which is between 110% and 200% of the square footage of the property taken shall be considered to have changed ownership and shall be reappraised at fair market value to the extent the square footage exceeds 110% of the property taken.

EXAMPLE: A 2,000 square foot home is replaced with a 1,500 square foot home, a 2,000 square foot home or a 2,200 square foot home. Full relief shall be granted.

EXAMPLE: A 2,000 square foot home is replaced with a 4,000 square foot home. Relief shall be granted on 2,200 square feet; 1,800 square feet shall be considered as having changed ownership and shall be reappraised at fair market value.

EXAMPLE: A 2,000 square foot home is replaced with a 5,000 square foot home. No relief shall be granted. The entire 5,000 square foot replacement home shall be reappraised at fair market value as a change in ownership.

(2) UTILITY AND FUNCTION. Replacement property shall be considered comparable in utility and function if it is subject to similar government restrictions, such as zoning, and if its use is substantially the same as the property taken; i.e., single-family residential, multi-family residential, commercial, industrial, agricultural, open space, vacant, etc. In cases where the replacement property involves a mixed use, relief shall only be granted to the extent that the use is comparable.

EXAMPLE: A home is replaced by a combination dwelling and commercial property. Relief is applicable to only the dwelling portion of the replacement property; the commercial portion shall be considered as having changed ownership.

EXAMPLE: A combination dwelling and commercial property is replaced with a home. Only the dwelling portion of the property taken will be considered in determining the comparability and the amount of relief. The right to relief on the commercial portion of the property taken is waived unless comparable replacement commercial property is timely acquired.

EXAMPLE: A combination dwelling and commercial property is replaced with a home, and two years later the displaced person also acquires comparable replacement commercial property. Relief is granted on both the replacement home and commercial property.

(c) OWNERSHIP REQUIREMENTS. Replacement property shall be eligible for property tax relief under this section to the extent that its ownership is the same as the property taken.

(1) CONCURRENT OWNERSHIP.

A. In cases involving the displacement of multiple owners, the adjusted base year value of the property taken shall be divided among the owners in proportion to their ownership interests in such property.

EXAMPLE: A, B, and C, as equal tenants-in-common, were displaced from a 1,500 square foot dwelling with an adjusted base year value of \$60,000. Each party can carry forward a rateable adjusted base year value of \$20,000 to be applied to 500 square feet of a replacement property. If A individually buys a replacement dwelling which has 1,000 square feet and a market value of \$60,000, then there shall be a reappraisal of one-half the property at \$30,000, for a new total adjusted base year value of \$50,000 (\$20,000 + \$30,000).

B. In cases involving a purchase of replacement property by both displaced and non-displaced person(s), relief shall be reflected in the adjusted base year value of the replacement property to the extent of the ownership interest of the displaced person(s) in such property.

EXAMPLE: A was displaced from a 2,000 square foot dwelling with an adjusted base year value of \$60,000. A buys a 2,000 square foot dwelling with a fair market value of \$80,000, along with B who was not displaced, as equal tenants in common. There shall be a reappraisal of one-half of the property at \$40,000, for a new total adjusted base year value of \$70,000. (\$30,000 + \$40,000).

(2) OWNER IDENTITY. Eligibility for the property tax relief under this section shall be available only to the person, whether it be an individual, partnership, corporation or other legal entity, who/that was displaced by governmental action or eminent domain proceedings. Unless an exclusion is otherwise applicable as is provided in Section 462, relief is predicated upon title to the replacement property being taken in the name of the same individual or legal entity that held title to the property taken, regardless of whether other non-qualifying persons are also included on the title to the replacement property.

EXAMPLE: Partnership, consisting of Partners A and B, was displaced from commercial property. Partner A buys comparable replacement property X and Partner B buys comparable replacement property Y. Both purchases constitute changes in ^oownership and there shall be a reappraisal of both properties X and Y at their fair market value.

EXAMPLE: Corporation X was displaced from commercial property. Corporation X and Partnership Y buy comparable replacement property as tenants-in-common. Corporation X shall receive property tax relief to the extent of its ownership interest in the replacement property. Partnership Y's interest in the replacement property shall be reappraised at fair market value,

EXAMPLE: Corporation X, with three equal stockholders A, B, and C, was displaced from commercial property. Stockholders A, B, and C, buy comparable replacement property as equal tenants-in-common. Full property tax relief shall be granted. The exclusion set forth in Section 462(j)(2) is applicable.

(3) LEASEHOLD INTERESTS. For purposes of this section, the lessor shall be considered the owner of the property taken, regardless of the term of the lease.

(d) NEW CONSTRUCTION. Any new construction required to make replacement property comparable to the property taken shall be eligible for property tax relief, provided that such new construction meets the time limits for qualification.

(e) TIME LIMITS FOR QUALIFICATION.

(1) The provisions of this section shall apply to property acquired after March 1, 1975, as replacement property for property taken by eminent domain proceedings, public acquisitions, or judgments of inverse condemnation, and shall affect only those assessments of the replacement property on the 1983-84 assessment roll and thereafter, provided the person acquiring replacement property makes a timely request for such assessment with the assessor. No reassessments and no refunds shall be made for any years prior to the 1983-84 fiscal year for any decreases made for the 1983-84 fiscal year or fiscal years thereafter as a result of the provisions of this section.

(2) For purposes of this subdivision, a request made by January 1, 1987, shall be deemed timely for replacement property acquired after March 1, 1975, and before January 1, 1983. For replacement property acquired on or after January 1, 1983, a request shall be deemed timely if made within four years of the earliest of the following dates:

(A) The date the conveyance to the acquiring entity or the final order of condemnation is recorded.

(B) The date of actual possession by the acquiring entity.

(C) The date upon or after which the acquiring entity may take possession as authorized by an order for possession or by a declaration of taking.