



STATE BOARD OF EQUALIZATION

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No. 91/03

January 15, 1991

TO COUNTY ASSESSORS:

NONRESIDENTIAL NEW CONSTRUCTION - PROPOSITION 111

As you know, Proposition 111 was passed by the voters in June of 1990 and it amended Article XIII B of the Constitution. It altered the method of calculating the "Gann Limit" for each taxing jurisdiction. It changed the definition of "cost of living" in subdivision (e) of Section 8 of Article XIII B to be either:

- (1) The percentage change in California per capita personal income from the preceding year, or
- (2) The percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction.

Some of our staff have met with the California Auditor Controllers Association and discussed this proposition and its ramifications. They have also attended other meetings in an attempt to determine the intent of the amendment to Article XIII B. To date, we have not been successful in finding an existing definition of the term "nonresidential." However, based on the fact that the term nonresidential was used rather than "commercial and industrial" we assume that the term was meant to have a broad interpretation.

We feel that the most practical approach is to define residential. Then, anything that does not meet that definition would be considered nonresidential. Primary consideration should be given to the existing zoning of a particular property. If it has been zoned residential, presume that it is residential unless there is a zoning variance in existence, or the actual use of the property is, in your opinion, not residential.

A property would be residential if its primary use is as a place of abode. This would, of course, include any single-family residence as well as mobilehomes. It would also include multi-family uses as well. Following are some examples of general residential type properties and how we feel they should be categorized:

Residential
 Single-Family
 Mobilehome
 Duplex
 Triplex
 Quadplex
 Apartment House

Nonresidential
 Motel
 Hotel
 Timeshare
 Convalescent Facilities
 Seasonal Farm Labor Shelters

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Of course all other uses would fall into the category of nonresidential use. Examples of these uses might be commercial, industrial, agricultural, institutional, and hospital just to name a few.

In the case of mixed use (a commercial store with a residence attached) you will have to make a determination as to the primary use of the property. If, for example, you think the main use is commercial, you should so categorize the property as such and then any new construction on that property would be includable for purposes of calculating the limit.

The term "new construction" would include anything that you normally add to the roll as new construction pursuant to Article XIII A. New construction is defined in Revenue and Taxation Code Section 70 and following to include certain physical alterations and any additions to real property. The term is further elaborated upon in Property Tax Rules 463, 463.5, 466, 467, 468, and 469. In addition, you should also include anything you would add as new construction to the local roll under the general requirements of Article XIII.

New construction includes, but is not limited to the following: new structures or fixtures, additions to real property, modernizations that make a structure or fixture the substantial equivalent of new, discovery of previously unknown reserves of oil and gas property, living improvements coming off exemption, alterations to real property that lead to a change in use, removal of property, etc.

New construction excludes consideration of the "Board roll." Centrally assessed public utility property is not assessed pursuant to Article XIII A and the phrase "new construction" has no significance for assessment/appraisal procedures related to the valuation of such property.

You will be asked, probably by each taxing jurisdiction within your county, for figures that they can utilize to calculate the new limit. Currently, we are not certain what figures you will be asked to provide. You will certainly be asked for the dollar amount of nonresidential new construction for each taxing jurisdiction. In addition, you may be asked to provide numbers relating to growth of assessed value. You will need to coordinate with each jurisdiction to assist them in obtaining the figures that they require.

If you have any further questions, please feel free to contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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