California State Board of Equalization
Legislative, Research & Statistics Division

LEGISLATIVE BULLETIN

PROPERTY TAX LEGISLATION
2018

FOREWORD

The State Board of Equalization's (BOE) Legislative, Research & Statistics Division (LRSD) is responsible for all aspects of the BOE's legislative, research, and statistics for the tax programs that the BOE administers. The LRSD screens all introduced and amended bills, and the review is used to identify legislation that could impact or be of interest to the BOE.

The Property Tax Legislative Bulletin is an annual publication that describes the enacted legislation in the past year that impacts property tax programs administered by the BOE. This publication is a compilation of the legislative bill analyses issued by the BOE for bills that were enacted during 2018. The legislative bill analyses for 2018 are posted on the BOE's website at www.boe.ca.gov/app/proptax-leg-analyses.aspx?year=2017-2018.

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Assembly Bill 1817 (Committee on Budget), Chapter 37
Budget Trailer Bill

Effective June 27, 2018.

Among others, amends section 15600 of, and adds section 15570.31 to, the Government Code; amends sections 214, 215.1, 254.5, 254.6, 480.1, and 480.2 of, and adds section 95.50 to, the Revenue and Taxation Code.

This analysis is limited to the property tax provisions.

Summary:

- Transfers the administration of the welfare exemption, the veterans' organization exemption, the change in control and change in ownership of legal entities, and the Tax-Rate Area System from the California Department of Fee and Tax Administration (CDTFA) to the State Board of Equalization (BOE). *Government Code section 15600 and Revenue and Taxation Code sections 214, 215.1, 254.5, 254.6, 480.1, and 480.2*

- Authorizes the CDTFA and the BOE to delegate, share, and provide assistance for, or transfer between themselves administrative responsibilities for tax and fee programs pursuant to an agreement. *Government Code section 15570.31*

- Establishes the State Supplementation for County Assessors Program. *Revenue and Taxation Code section 95.50*

Transfer of Responsibilities
Government Code Sections 15570.31 and 15600;
Revenue and Taxation Code Sections 214, 215.1, 254.5, 254.6, 480.1, and 480.2

Former Law: Effective July 1, 2017, Assembly Bill 102 separated the BOE into three agencies: the BOE, the CDTFA, and the Office of Tax Appeals (OTA). The BOE retained its constitutional duties and responsibilities, including:

- Review, equalization and adjustment of property tax assessments.

- Measurement of county assessment levels or adjustment of secured assessment rolls.

- Assessment of pipelines, flumes, canals, ditches and aqueducts located in multiple counties.

- Assessment of property owned by regulated railway, telegraph, telephone, gas or electricity businesses.

- Assessment of taxes on insurers.

- Assessment and collection of excise taxes on manufacture, importation or sales of alcoholic beverages.

The BOE maintained employment of all state civil service employees engaged in activities related to the BOE's constitutionally-established duties.

AB 102 transferred the administration and collection of various taxes and fees to the CDTFA. The appellate responsibility relating to the collection of those taxes and fees and for income taxes collected by the Franchise Tax Board were transferred to the OTA.

As part of the restructuring, four programs in the Property Tax Department were transferred to the CDTFA:[1]

- Legal Entity Ownership Program
- Tax Area Services Section
- Timber Yield Tax Program
- Welfare Exemption Program

Amended Law: This is a budget trailer bill for 2018-19 that contains necessary changes related to the Budget Act of 2018. Specifically, this bill:

- Transfers authority to administer the Welfare Exemption Program (which includes administration of the veterans' organization exemption), the Legal Entity Ownership Program, and the Tax Area Services Section and related provisions from the CDTFA to the BOE.[2] Transfers all employees serving in state civil service, as specified, who are engaged in the performance of functions related to these statutes, all the rights and property related to these statutes, to the BOE. *Government Code section 15600 and Revenue and Taxation Code sections 214, 215.1, 254.5, 254.6, 480.1, and 480.2*

- Authorizes the CDTFA and the BOE to delegate, share, and provide assistance for, or transfer between themselves administrative responsibilities for tax and fee programs within the department's and board's respective duties, powers, and responsibilities pursuant to an agreement. Prohibits the agreement between the department and the board from transferring jurisdiction over any tax or fee that is the subject of the agreement. *Government Code section 15570.31*

The Timber Yield Tax Program remains with the CDTFA.

Background: The California Constitution establishes the BOE as an elected board and charges it with equalizing property tax assessments across the state, assessing certain statewide properties of a unitary nature, assessing the tax on insurers, and administering components of

[1] See Letter To Assessors No. 2017/027.
[2] See Letter To Assessors No. 2018/033.

excise taxes on alcoholic beverages. Prior to July 1, 2017, statutes gave additional authority to the BOE relating to the administration and collection of various taxes and fees (including sales and use tax, cigarette and tobacco products excise taxes, and fuel excise taxes) and generally made the BOE responsible for administrative appeals relating to the collection of those taxes and fees and for income taxes collected by the Franchise Tax Board.

Legal Entity Ownership Program. The Legal Entity Ownership Program (LEOP) gathers and disseminates to county assessors information regarding changes in control and changes in ownership of legal entities that own or lease an interest in California real property. Such changes in ownership or changes in control require reassessment of the real property interests. Thus, the purpose of the program is to assist county assessors in discovering changes in control or changes in ownership that have not been captured by a county's own discovery systems. The program is needed because, ordinarily, transfers of ownership interests in legal entities do not involve a recorded deed or other notice that would inform county assessors.

Tax Area Services Section. The Tax Area Services Section (TASS) is responsible for maintaining, recording, and reporting to the various county auditors and assessors within the state of California all changes to jurisdictional boundaries of revenue districts that are required to file with the BOE.

Timber Yield Tax Program. The Timber Yield Tax program sets the harvest value of timber and collects an in lieu tax when it is harvested. The revenue from this program is allocated to the counties where the timber was harvested.

Welfare Exemption Program. The BOE and the 58 county assessors jointly administer the Welfare Exemption. The BOE determines whether the organization is eligible to receive the Welfare Exemption and, if eligible, issues an Organizational Clearance Certificate for the claimant to provide with claim forms filed in any of the 58 counties. The county assessor determines whether the use of the property is eligible for the exemption. Applications for exemption of property are filed with the county assessor where the property is located. The assessor is responsible for granting or denying the exemption.

Commentary:

1. Effective July 1, 2017, the Timber Yield Tax Program, TASS, LEOP, and the Welfare Exemption Program were transferred from the BOE's Property Tax Department to the CDTFA.

2. The duties of staff in the TASS, LEOP, and the Welfare Exemption Program are interconnected with the Constitutional duties that remained with the BOE. BOE conducts the duties related to those programs through an Interagency Agreement with CDTFA.

3. The administration and collection of the Timber Yield Tax remains with the CDTFA, along with the other tax and fee programs administered and collected by the CDTFA.

State Supplementation for County Assessors Program

Revenue and Taxation Code Section 95.50

Summary: Establishes the State Supplementation for County Assessors Program.

Amended Law: This bill establishes, for the 2018–19 through 2020–21 fiscal years, the State Supplementation for County Assessors Program under terms and conditions similar to the State-County Assessors' Partnership Agreement Program. The program is administered by the State Department of Finance (DOF).

Program Funds. Counties selected for participation in the new program must match the program funds apportioned to that county assessor's office, at the rate of $1 for every $2 in program funds that the county assessor's office receives. Program funds are to be used only for the following:

- The payment of county assessor's staff salaries and benefits for the following activities:
    - Assessing and enrolling newly constructed real property.
    - Reassessing real property that has changed ownership.
    - Processing supplemental assessments for real property that has changed ownership.
    - Reassessing existing real property that has been modified in a way that changes its current assessed value.
    - Reassessing real and personal property that has escaped assessment.
    - Reassessing to current market value those real properties for which the county assessor previously reduced the assessed valuation.
    - Discovering unassessed real and personal property.
    - Responding to real property assessment appeals.
    - Conducting property tax audits pursuant to RTC sections 469 and 470.
- Procuring office space for staff hired to perform the above functions.
- Procuring office supplies and related items for staff hired for the above functions.
- Procuring information technology systems and software to assist with the activities specified above by increasing efficiencies and effectiveness of property tax administration and allowing for appropriate utilization of Program funds.

Report to DOF. Each participating county assessor's office must report specified information to the DOF no later than August 10 of each year that the Program is operative. The DOF is required to submit, by March 1, 2022, a report that includes specified information for each fiscal year that the program was in operation to the Joint Legislative Budget Committee.

Background: For fiscal years 2014-15 to 2016-17, Senate Bill 854 (Stats 2014, ch. 28) created the State-County Assessors' Partnership Agreement Program, which was a three-year pilot program[3] administered by the DOF. The program was limited to nine counties, competitively selected from three classes of counties based on county population, as specified. Under this program, the counties that were selected received funding for certain property tax administration purposes. The program required participating counties to annually match the program funds apportioned to its assessor's office and to report specified information to the DOF.

[3] Revenue and Taxation Code section 95.5.

Assembly Bill 2425 (Berman), Chapter 968
Exchange of Information

Effective January 1, 2019.

Amends sections 408, 441, and 470 of the Revenue and Taxation Code.

Summary: Upon written request, requires an assessor to transmit information and records by mail, or in electronic format if available, within a reasonable time and provides that there will be no cost if that information is transmitted in electronic format except for any developmental or indirect costs to provide information that the assessor is not required to keep or prepare. Upon written request, requires a property owner to provide information or records to the assessor by mail or in electronic format, if available, within a reasonable time.

Former Law: **Business Property Statements.** Under existing property tax laws, an ad valorem tax is imposed every year on all assessable personal property used in a trade or business at its current fair market value. In making this annual assessment, taxpayers typically report the cost of their property holdings to the local county assessor on the "business property statement" as provided in Revenue and Taxation Code (RTC) section 441. The business property statement shows all taxable property, both real and personal, owned, claimed, possessed, controlled, or managed by the person filing the property statement.

When the aggregate cost of the taxable personal property is $100,000 or more, the person is required to file a business property statement, signed under penalty of perjury, each year by April 1 with the assessor.[4] Property statements that are not filed by May 7, which would include those incomplete and not resubmitted by this deadline, are subject to a 10 percent penalty.[5]

Current law allows property statements to be filed electronically[6] and provides that the required signed declaration that the contents of the statement are true and accurate can be authenticated by means other than a traditional signature.

Amended Law: This bill:

- Requires an assessor to provide information, documents, or records to an assessee or the assessee's designated representative by mail, or in electronic format if those items are available in electronic format or have been previously digitized, within a reasonable time period at the request of the assessee or the assessee's designated representative. If such information is transmitted in electronic format, provides that the costs that may be recovered are developmental or indirect costs to provide information that an assessor is not required to keep or prepare. *RTC section 408(e)(1)(C)*

[4] RTC section 441(b) and (i).
[5] RTC section 463.
[6] RTC sections 441(k) and 441.5.

- Requires a property owner to provide information or records to the assessor by mail, or in electronic format if those documents are available in an electronic format or have been previously digitized, within a reasonable time period at the request of the assessor. *RTC sections 441(d)(2) and 470(b)*

In General: California's system of property taxation values property at its 1975 fair market value, with annual increases limited to the inflation rate, as measured by the California Consumer Price Index, or 2 percent, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or completion of new construction, the value of the property for property tax purposes is reassessed based on current market value (called the "base year value"). Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value." For any lien date, the taxable value of any real property is the lesser of the property's base year value or its full cash value.[7]

Assessors' Records. Under existing law, an assessee or his or her designated representative may inspect or copy information, documents, and records relating to the appraisal and the assessment of the assessee's property. An "assessee" is defined in RTC section 23 as "the person to whom the property or a tax is assessed" and is understood to mean the current owner.

Costs. Any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor are not public documents and not open to public inspection.[8] If an assessor, upon request, provides information or records that the assessor is not required by law to prepare or keep, the county may require that a fee reasonably related to the actual cost of developing and providing that information be paid by the party receiving the information.[9] The actual cost of providing the information is not limited to duplication or reproduction costs, but may include recovery of developmental and indirect costs, such as overhead, personnel, supply, material, office, storage, and computer costs.

Mandated Confidential Information. There are a number of laws that require certain information kept by an assessor's office to be kept confidential. Certain documents filed by taxpayers are statutorily required to be kept confidential. These are the property statement, the change in ownership statement, and the homeowners' exemption, parent-child exclusion, and certain base year value transfer claim forms which include social security numbers.[10]

Generally, the assessor is prohibited from disclosing any document related to the business affairs of another taxpayer. However, the assessor must disclose "market data" to a taxpayer if the assessor based the assessment of that taxpayer's property using comparable sales. In providing market data on comparable sales to a taxpayer, however, the assessor is still statutorily

[7] RTC section 51(a).
[8] RTC section 408(a).
[9] RTC section 409.
[10] RTC sections 408.2, 451, and 481.

prohibited from displaying any document related to the business affairs or property of those taxpayers who own the properties used as comparable sales.[11]

Mandated Public Information. There are also a variety of laws that require that certain information kept by the assessor's office be open, public information: the assessment roll, which includes the assessed value, ownership, location of property, as well as a notation of which properties receive the homeowners' exemption,[12] assessment maps,[13] a list of all transfers of property in the last two years,[14] and information maintained on property characteristics, including year built, square footage, number of bed and baths, property use codes, etc.[15] In addition, welfare exemption claims are open to public inspection.[16]

Assessment appeals hearings before the assessment appeals board are statutorily required to be open to the public except that deliberations may be held in private. A taxpayer may request the appeals board to close a portion of the hearing if evidence is to be presented that relates to trade secrets which, if disclosed, would be detrimental to the business interests of the owner of the trade secrets.[17]

Business Personal Property. Personal property used in a trade or business is generally taxable and its cost must be reported annually to the assessor on the business property statement as provided in RTC section 441. Personal property is not subject to the valuation limitations of Proposition 13. It is valued each lien date at current fair market value. However, it is not administratively possible to individually determine the fair market value of every item of personal property used by all of the businesses in California every year. Consequently, mass appraisal techniques are necessary to complete the annual reassessment process.

Business Personal Property Valuation Process. Generally, the valuation of personal property is based on the acquisition cost of the property. The acquisition cost is multiplied by a price index, an inflation trending factor based on the year of acquisition, to provide an estimate of its reproduction cost new. The reproduction cost new is then multiplied by a depreciation index, also called percent good tables, to provide an estimate of the depreciated reproduction cost of the property (reproduction cost new less depreciation). The reproduction cost new less depreciation value becomes the taxable value of the property for the fiscal year.

With respect to business personal property assessments, the Board annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors*. This handbook contains several tables of equipment index factors, percent good, and valuation factors that aid in the mass appraisal of various types of personal property and fixtures as well as serve to promote statewide uniformity.

[11] RTC sections 408, 408.1, and 408.2.
[12] RTC sections 408.2, 602, and 1602.
[13] RTC section 327.
[14] RTC section 408.1.
[15] RTC section 408.3.
[16] RTC section 408; *Gallagher* v. *Boller* (1964) 231 Cal.App.2d 482.
[17] RTC section 1605.4.

Business Property Statement. RTC section 441(a) requires that owner of taxable personal property who is not *required* to file a property statement "shall, upon request of the assessor, file a signed property statement." The property statement must list all taxable property owned, state the county and city where the property is located, and provide a detailed description of the property.[18] The statement is required to be filed between January 1 and April 1.[19] However, a penalty for late filing does not apply if the statement is filed by May 7. Additionally, property statements can be "amended" until May 31 to correct specified errors and omissions.[20] Late statements are subject to a 10 percent penalty.[21]

RTC section 441(d) permits the assessor to request information from the assessee in addition to the property statement (called section 441(d) requests), and provides, in part:

> At any time, as required by the assessor for assessment purposes, every person shall make available for examination information or records regarding his or her property or any other personal property located on premises he or she owns or controls. In this connection details of property acquisition transactions, construction and development costs, rental income, and other data relevant to the determination of an estimate of value are to be considered as information essential to the proper discharge of the assessor's duties.

Appeals. A reduction in an assessment may be requested if an assessee files an application for reduction in the assessment with the local assessment appeals board (AAB).[22] The assessee's application is then heard by the AAB, whose task it is to make a determination of value.[23] Prior to the hearing, the parties are responsible for obtaining relevant evidence for presentation to the AAB.[24] This process involves discovery, which may include exchanges of information between the assessee and the assessor.[25] RTC section 1606(a)(2) and Property Tax Rule 305.1(a) permit either party to, in specific circumstances, initiate an exchange of information with the other party by submitting certain information at least 30 days before the AAB hearing. In addition, assessors may also issue section 441(d) requests after assessees have submitted their applications for changed assessment, and prior to the equalization hearing.[26]

Background: Senate Bill 2092 (Stats. 2002, ch. 775) was enacted to provide specific authorization for assessors to accept business property statements filed electronically. Additionally, it addressed signature requirements by addressing authentication by means other than a traditional signature.

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[18] See RTC sections 442, 443, 445.
[19] RTC section 441(b).
[20] RTC section 441(i).
[21] RTC section 463.
[22] RTC section 1603(a).
[23] RTC section 1604.
[24] *Assessment Appeals Manual* (May 2003), p. 36.
[25] *Bank of America v. County of Fresno* (1981) 127 Cal.App.3d 295, 305.
[26] *State Board of Equalization v. Ceniceros* (1998) 63 Cal.App.4th 122. Also, see Property Tax Annotation 180.0071.020.

Commentary:

1. **Author's Comment.** Assembly Bill 2425 would modernize how an assessor may request and how a taxpayer may provide information needed for property tax assessments. Specifically, the bill would codify the existing practice of providing taxpayer information via mail, as well as via electronic format. The goal is to improve government efficiency and make this process more convenient for all parties.

2. **Summary of Amendments.** The **August 20, 2018** amendments (1) required the parties, upon written request, to transmit information, documents, or records by mail, or in electronic format if the information or records are available in electronic format or have been previously digitized; and (2) added double-jointed language for SB 1172. The **May 2, 2018** amendments applied the same standards for the transmission of records to both the assessor and a property owner and require each, upon request, to transmit information, records, and documents by mail or in electronic format, if available, within a reasonable time. The **March 19, 2018** amendments authorized the county assessor to require that information or records be provided to the assessor by mail or in an electronic format, if available.

3. **Access to Assessor's Records.** Under existing law, upon request of an assessee, the assessor must allow the assessee or his or her designated representative to inspect or copy all information, documents, and records relating to the appraisal and assessment of the assessee's property. This bill adds the requirement that the assessor transmit the information, documents, and records by mail, or in electronic format if they are available in electronic format or have been previously digitized, within a reasonable time period. It appears the assessor would have a choice as to the method he or she will use to deliver the information requested: by mail or in electronic format. The language in the amended bill is not clear that if the assessee requests the information and records be delivered in electronic format and the information and records exist in electronic format, they must be provided in electronic format.

4. **Access to Assessee's Records.** Under existing law, upon request of an assessor, a property owner is required to make property or business records available at the principal place of business, location, or address in California, or at a place mutually agreeable to the assessor and the owner.[27] This bill adds the requirement in RTC sections 441 and 470 that the information or records be provided to the assessor by mail, or in electronic format if they are available in electronic format or have been previously digitized, within a reasonable time period. Similarly, it appears that the assessee would have a choice as to the method he or she will use to deliver the information requested: by mail or in electronic format. The language in the amended bill is not clear that if the assessor requests the information and records be delivered in electronic format and the

[27] RTC section 470.

information and records exist in electronic format, they must be provided in electronic format.

5. **Electronic Format.** The bill requires that, upon written request, the information, records, and documents requested must be transmitted by mail, or in electronic format if the information, documents, or records are available in electronic format or have been previously digitized. The term "previously digitized" is confusing. Does this phrase mean that if, at one time, the records existed in electronic format, or were digitized (if there's a difference) and no longer exist in that format, the party being asked for the records needs to produce them in that format? The difference between what is meant by "electronic format" and "digitized" is unclear.

6. **Reasonable Time Period.** This bill requires that either the assessor or the assessee must provide requested information within a reasonable time period. "Reasonable time period" is not defined. An assessor and an assessee may have different interpretations as to what would be considered a "reasonable" time period.

7. **Costs.** Current law allows a county to charge a fee if the assessor provides information or records that the assessor is not required by law to prepare or keep. This bill provides that if an assessor transmits the information, documents, or records in electronic format, the only costs that may be recovered are any developmental or indirect costs to provide information that an assessor is not required to keep or prepare.

8. **Related Legislation.** Senate Bill 1172 (Stats. 2018, ch. 790) also amends RTC section 408 to allow the High-Speed Rail Authority to obtain or access otherwise confidential information held by the county assessor.

Assembly Bill 2663 (Friedman), Chapter 919

Change in Ownership Exclusion: Local Registered Domestic Partners

Effective September 29, 2018.

Amends section 62 of the Revenue and Taxation Code.

Summary: Provides a retrospective change in ownership exclusion for any transfer of real property between local registered domestic partners occurring between January 1, 2000 and June 26, 2015.

Former Law: Under existing law,[28] real property is reassessed to its current fair market value whenever there is a "change in ownership." Revenue and Taxation Code (RTC) section 62 provides numerous definitional exclusions from change in ownership for a variety of ownership interest transfers in real property and legal entities.

Registered Domestic Partners. Beginning January 1, 2000, the law[29] provides that a change in ownership does not include any transfer between registered domestic partners, defined[30] as two natural persons over the age of 18 years who enter into a registered domestic partnership by filing a Declaration of Domestic Partnership form with the California Secretary of State. Property tax law[31] also describes the more common transfers of property interests between registered domestic partners that may be excluded, such as those resulting from death, dissolution of a registered domestic partnership, and creation of a trust.

Current law does not provide an exclusion from change in ownership for transfers of real property between domestic partners who are registered with a local government, only those registered with the California Secretary of State.

Disabled Child/Ward. Existing law[32] provides that a change in ownership does not include a transfer of a principal residence to a disabled child or ward, whether minor or adult, or to a trust for the sole benefit of such person, upon the death of a parent or guardian if the following criteria are met:

- The transfer must be from a parent or guardian to a disabled child or ward as provided in Welfare and Institutions Code section 12304(d). Specifically, the child/ward requires in-home supportive care of at least 20 hours per week to carry out specified tasks.
- The child or ward has met the disability definition for at least five years preceding the transfer.

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[28] RTC sections 60 and 61.
[29] RTC section 62(p).
[30] Family Code section 297.
[31] RTC section 62(p).
[32] RTC section 62(n) and Property Tax Rule 462.240(h).

- In the year in which the transfer occurs, the combined income of the child or ward and parent or guardian does not exceed $20,000.
- The property was the principal place of residence of the child or ward for at least five years preceding the transfer and remains so after the transfer.

This exclusion is separate from the parent-child exclusion contained in RTC section 63.1.

Amended Law:

Disabled Child/Ward Exclusion. This bill makes a nonsubstantive change to the disabled child/ward exclusion for the 1984-85 assessment year. RTC section 62(n) requires in pertinent part that any transferee whose property was reassessed in contravention of *the provisions of* this subdivision for the 1984-85 assessment year obtain a reversal of that reassessment upon application to the county assessor (emphasis added). This bill removes the phrase "the provisions of" from this sentence. This change has no effect on the proposed addition of subdivision (q) to RTC section 62, which relates to local registered domestic partnerships.

Local Registered Domestic Partners. This bill provides a retrospective change in ownership exclusion for a transfer of real property between local registered domestic partners occurring between January 1, 2000 and June 26, 2015.

Eligibility Requirements. To be eligible for a reassessment reversal, the property owner must have been in a registered domestic partnership established by a city, county, city and county, or special district where the registrants were of the same sex at the time of registration and the registrants were not married or in a registered domestic partnership with any other person at the time of transfer.

Claim Must be Filed by June 30, 2022. To receive a reversal of the reassessment for a transfer of real property between local registered domestic partners between January 1, 2000 and June 26, 2015, a property owner must file a claim form with the assessor by June 30, 2022. The claimant must provide documentation that names the transferee and transferor as local registered domestic partners and reflects the creation of the local registered domestic partnership on a date prior to or concurrent with the date of the transfer for which a reassessment reversal is requested.

Application Fee. The county may charge a fee to recoup its costs related to processing the application and reversing the prior reassessment in an amount that does not exceed the actual costs incurred.

Effective Date of Reversal. The reassessment reversal granted pursuant to a claim applies commencing with the lien date of the assessment year[33] in which the claim is filed.

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[33] RTC section 118 defines "assessment year" as the period beginning with a lien date and ending immediately prior to the succeeding lien date.

No Property Tax Refunds for Prior Years. This bill expressly provides that property tax refunds will not be made for any prior assessment year.

In General: California's system of property taxation values property at its 1975 fair market value, with annual increases limited to the inflation rate, as measured by the California Consumer Price Index, or 2 percent, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or completion of new construction, the value of the property for property tax purposes is reassessed based on current market value (called the "base year value"). Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value." This system results in substantial property tax savings for long term property owners.

Proposition 13. Proposition 13 was an initiative approved by voters on June 6, 1978, adding article XIII A to the California Constitution, and established a new system of property taxation as previously described. Related to this bill, subdivision (a) of section 2 of the initiative provided:

> The full cash value means the County Assessors valuation of real property as shown on the 1975-76 tax bill under "full cash value", or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 tax levels may be reassessed to reflect that valuation.

The initiative did not define "change in ownership" within its text. The ballot pamphlet did not define, nor did it discuss, the term "change in ownership." Because the language of the initiative failed to define this integral element, it fell to the Legislature to determine what constitutes a "change in ownership" and to define the term through legislation. Consequently, the statutory scheme defining "change in ownership" enacted after Proposition 13 was done so without specific constitutional mandate or authorization.

Task Force on Property Administration. Following the passage of Proposition 13, the Assembly Revenue and Taxation Committee appointed a task force to study existing property tax statutes in light of Proposition 13, and to recommend the appropriate changes to the Revenue and Taxation Code in light of the ambiguities of Proposition 13. The Task Force was a broad based 35-member panel that included legislative and Board staff, county assessors, attorneys in the public and private sectors, and trade associations. The Task Force issued its *Report of the Task Force on Property Tax Administration* to the Assembly Revenue and Taxation Committee on January 22, 1979.

Defining Change in Ownership. In defining change in ownership, the Task Force's goal was to distill the basic characteristics of a "change in ownership" and embody them in a single test, which could be applied evenhandedly to distinguish between "changes" and "non-changes." It ultimately concluded that a change in ownership is a transfer which has all three of the following characteristics:

- It transfers a present interest in real property.
- It transfers the beneficial use of the property.
- The property rights transferred are substantially equivalent in value to the fee interest.

The Legislature adopted this definition in RTC section 60. Following the recommendation of the Task Force, the Legislature also included specific examples in RTC section 61 of transfers constituting a change in ownership and specific examples in RTC section 62 of transfers not constituting a change in ownership. In addition, RTC section 63, which sets forth the interspousal exclusion, was included in the original statutory scheme, prior to inclusion of the interspousal exclusion in the California Constitution via Proposition 58 in 1986. The Task Force recognized that transfers between spouses satisfied the three elements for a change in ownership, but chose to specifically exclude these transfers from change in ownership anyway. The Task Force stated in its Report that it saw no reason to exclude some interspousal transfers, such as transfers involving joint tenancy or community property, but not other transfers, such as a transfer of separate property between spouses.

Background:

Change in Ownership Exclusions. As previously stated, the term "change in ownership" was not defined by Proposition 13. Certain definitional "exclusions," including the interspousal exclusion, were embodied in the initial statutory definitions necessary to implement Proposition 13's change in ownership provisions. Some change in ownership exclusions are contained in statute, while others are contained in the Constitution.

Since Proposition 13, the Constitution has been amended twice to provide for additional change in ownership exclusions for certain family transfers.[34] Under specified conditions, these transfers will not trigger a reassessment of the property to current fair market value. Instead, the property retains its prior base year value.

Other constitutional amendments have been approved by voters permitting a person to "transfer" his or her Proposition 13 base year value from one property to another property, thereby avoiding reappraisal of the newly purchased property to its fair market value if certain conditions are met. In essence, this is another form of a change in ownership exclusion.

[34] Proposition 58 (November 4, 1986) for transfers of real property between parents and children and Proposition 193 (March 26, 1996) for transfers from grandparents to grandchildren.

Those constitutional amendments include:

PROP.	ELECTION	BASE YEAR VALUE TRANSFERS	RTC
3	June 8, 1982	Replacement Property After Government Acquisition	§68
50	June 3, 1986	Replacement Property After Disaster	§69
60	Nov. 6, 1986	Persons Over 55 - Intracounty	§69.5
90	Nov. 8, 1988	Persons Over 55 - Intercounty	§69.5
110	June 5, 1990	Disabled Persons	§69.5
1	Nov. 3, 1998	Contaminated Property	§69.4

Therefore, as noted above, some change in ownership exclusions are contained in statute, while others are contained in the Constitution.

Disabled Child/Ward Exclusion. Subdivision (n) was added to the Revenue and Taxation Code by Assembly Bill 2890 (Stats. 1984, ch. 1010), effective January 1, 1985. To receive a reversal of a reassessment that occurred in the 1984-85 assessment year (March 1, 1984 through February 28, 1985[35]), the transferee had to file an application with the county assessor no later than 30 days after the later of either the transferee's receipt of notice of supplemental assessment or the end of the 1984-85 fiscal year (July 30, 1985).

State Domestic Partner Registry. Effective January 1, 2000, Assembly Bill 26 (Stats. 1999, ch. 588) established a statewide domestic partner registry, granted hospital visitation rights to registered domestic partners, and provided for health benefit coverage for the registered domestic partners of state employees. In 2003, Assembly Bill 205 (Stats. 2003, ch. 421) enacted the California Domestic Partner Rights and Responsibilities Act of 2003. Assembly Bill 205 provided that registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law as are granted to and imposed upon spouses.

The change in ownership exclusion for domestic partners registered with the California Secretary of State was added to the Revenue and Taxation Code (Senate Bill 565, Stats. 2005, ch. 416), commencing January 1, 2006.[36] Transfers between registered domestic partners prior to January 1, 2006 were subject to reassessment. However, there were a few exceptions, expressly provided in administrative regulations that became effective on November 13, 2003. Specifically:

- Property Tax Rule 462.040 provides, generally, that in the case where property is owned by persons, such as registered domestic partners, in the form of a "joint tenancy," then

[35] Prior to January 1, 1997, the lien date was March 1.

[36] RTC section 62(p) specifically defines "registered domestic partners" by reference to Family Code section 297, which provides for the California Secretary of State registry.

transfers of joint tenancy interests between these co-owners, under specified conditions, may not constitute a change in ownership.

- Property Tax Rule 462.240(k)[37] provided that any transfer of separate property inherited by a surviving domestic partner by intestate succession upon the death of a registered domestic partner did not constitute a change in ownership.

Subsequently, Senate Bill 559 (Stats. 2007, ch. 555) amended RTC section 62(p) to provide retrospective relief for any transfer of real property between registered domestic partners that occurred between January 1, 2000, and January 1, 2006. This change provided that a reassessment that occurred between those dates could be reversed beginning with the lien date of the assessment year in which the claim was filed. Property tax relief was prospective only; Senate Bill 559 expressly provided that property tax refunds would not be made for any prior assessment year. To receive a reversal of a reassessment, a property owner had to file a claim form with the county assessor by June 30, 2009.[38]

Commentary:

1. **Author's Statement.** Prior to 2006, a change in ownership between domestic partners was not eligible for the same exclusion that applied to married couples. Subsequent legislation addressed the discrepancy to allow domestic partners registered at the state level to qualify for the tax exclusion. However, domestic partners registered only with a county, city or other local jurisdiction, were ineligible for the exclusion. AB 2663 creates parity in the law so that every registered domestic partnership has equal access to full and equal benefits, regardless of where they originally registered. The bill creates an "amnesty" for those local registered domestic partnerships to receive a reversal of the reassessment.[39]

2. **Summary of Amendments.** The **August 17** amendment made a nonsubstantive change to the disabled child exclusion for the 1984-85 assessment year. The **April 10** amendments (1) described circumstances to which the local registered domestic partner exclusion applies (RTC section 62(q)(1)); (2) provided that the reversal applies on a prospective basis beginning with the lien date of the year in which the form is filed, stating specifically that no refunds shall be made for any prior year (RTC section 62(q)(2)(E)); (3) required the Board to prescribe the claim form (RTC section 62(q)(2)); (4) required the claim form to be filed by June 30, 2022 (RTC section 62(q)(2)), and (5) permit the county to charge a fee for actual costs related to the application (RTC section 62(q)(2)).

3. **California's Domestic Partners Registry became effective on January 1, 2000.** Persons eligible to register with the California Secretary of State as domestic partners include

[37] The provisions of Rule 462.240, subdivision (k) were replaced with subdivision (*l*), which references RTC section 62(p).

[38] See Letter To Assessors No. 2007/043.

[39] See Assembly Member Friedman's website at https://a43.asmdc.org/2018-legislation.

persons of the same sex in a committed relationship, as well as committed opposite-sex relationships where one partner is 62 years or older, that share a common residence.

4. **Current law provides a change in ownership exclusion for persons who are registered with the California Secretary of State.** Effective January 1, 2000, transfers of real property between registered domestic partners no longer trigger a reassessment of real property as provided in RTC section 62(p). This exclusion for registered domestic partners is limited to those who are registered with the California Secretary of State. Current law does not provide a change in ownership exclusion for local registered domestic partners.

5. **This bill would reverse any reassessment of real property due to a transfer of interests between local registered domestic partners that occurred after the creation of the Registry through June 26, 2015.** Generally, transfers of real property between co-owners with equal ownership in the property are subject to either a 0 percent, 50 percent, or 100 percent reappraisal to fair market value as of the date of the transfer. In these instances, the date of the transfer would typically have been the date of a partner's death or termination of a domestic partnership. The percentage of the property subject to reappraisal would have depended upon how the property was held and the manner in which the co-owner was added to the title of the property. Under this bill, any reappraisal that occurred during the specified time period due to a transfer between locally registered domestic partners would be reversed on a prospective basis.

6. **Restores Proposition 13 protected value.** For transfers of an interest in real property between local registered domestic partners that occurred January 1, 2000 through June 26, 2015, these property owners would pay the same amount of property taxes on their property as they did prior to the reassessment (plus any inflationary increases).

7. **Affected property owners must take action by June 30, 2022 by filing a claim with the county assessor.** The reversal of reassessment for transfers between domestic partners in a local registered domestic partnership is not automatic.

8. **The provisions of this bill are similar to other retrospective change in ownership exclusions where reassessments have been reversed on a prospective basis.** Specifically, RTC section 62(j) provides for transfers between co-owners occurring between 1975 and 1981, RTC section 62(n) for transfers between parents and disabled children occurring between 1975 and 1984, and RTC section 62(p) for transfers between domestic partners registered with the California Secretary of State occurring between 2000 and 2006.

9. **Any transfers of an interest in real property between local registered domestic partners that occur after June 26, 2015 would be subject to reassessment.** As drafted, Assembly Bill 2663 provides for retrospective relief for transfers occurring between January 1, 2000 and June 26, 2015, but no relief for transfers of real property between local registered domestic partners that occur *after* June 26, 2015. Current law does not provide a change in ownership exclusion for local registered domestic partners.

10. **The June 26, 2015 United States Supreme Court ruling did not change any of the Family Code sections related to registered domestic partners.** The June 26, 2015, United States Supreme Court ruling in *Obergefell v. Hodges* (2015) 135 U.S. 2584 (regarding the right to a same-sex marriage and whether states must recognize same-sex marriages performed in other states) did not invalidate or change any of the California Family Code sections related to registered domestic partners. Domestic partnership registrations are different from marriage licenses. While registered domestic partners may have the same rights, protections, and benefits and be subject to the same responsibilities, obligations, and duties under law as are granted to and imposed upon spouses, registered domestic partners are not married and are not considered spouses.

Assembly Bill 3122 (Gallagher), Chapter 149
Disaster Relief Deferral

Effective January 1, 2019.
Amends section 194.1 of the Revenue and Taxation Code.

Summary: In situations where a property owner has filed for disaster relief and deferral of property taxes, this bill clarifies when property taxes are to be paid.

Purpose: To prevent application of delinquent penalties and interest in situations where a property owner has filed for disaster relief and deferral of property taxes in a disaster situation, but ultimately discovers after the deadline for paying property taxes that the property is ineligible for disaster relief and deferment.

Former Law: Property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance[40] authorizing the disaster relief provisions of Revenue and Taxation Code (RTC) section 170. These provisions apply to major disasters affecting many properties, such as an earthquake, flood, or wildfire, as well as a disaster affecting an individual property, such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property after the lien date to recognize the loss in a property's market value. One of these conditions is that the sum of the full cash values of the land, improvements, and personalty before the damage or destruction exceeds the sum of the values after the damage by $10,000 or more.[41]

In addition, any property owner whose real property has been substantially damaged or destroyed by an event that resulted in the Governor proclaiming a state of emergency, and who has applied for property tax relief under RTC section 170, may apply to defer payment of property taxes on the next installment of the regular secured roll pursuant to RTC section 194, et seq. To qualify for deferral, property eligible for the homeowners' exemption must have damage amounting to at least 10 percent of its fair market value or $10,000, whichever is less.[42] For all other property, the damage must be at least 20 percent of its fair market value immediately preceding the disaster causing the damage. The tax deferral provision does not apply to taxes paid through impound accounts.[43]

When an application is timely filed, the next property tax payment is deferred without penalty or interest until the assessor has reassessed the property pursuant to RTC section 170 and a corrected property tax bill is mailed to the taxpayer. The deferred installment of taxes is due 30 days after the taxpayer receives the corrected bill. If unpaid after the 30 days, the bill becomes

[40] 57 of the 58 California counties have adopted an RTC section 170 ordinance; Fresno County has not adopted an ordinance.
[41] RTC section 170(b).
[42] RTC section 194(f).
[43] RTC section 194.1(c).

delinquent[44] and is subject to penalty provided by law.[45] If on reassessment the assessor determines the property was *not* eligible for disaster relief (and deferral of the tax), a delinquency penalty is levied for the nonpayment of the deferred taxes.[46]

Current law[47] provides that if the assessor determines that a property owner who applied and was granted a deferral of property taxes did not file the claim in good faith, the owner must be assessed a delinquency penalty for the nonpayment of the deferred taxes.

Amended Law: Assembly Bill 3122 clarifies when property taxes are due in situations involving a Governor-proclaimed disaster. When a property owner has filed for disaster relief and deferral of the next property tax bill installment, and the assessor has reassessed the property and a corrected tax bill has been sent to the property owner, this bill provides that the current year's taxes are to be paid on either December 10 for the first installment or April 10 for the second installment, or 30 days after the date the bill is mailed or electronically submitted to the property owner, whichever is later.[48]

Property Not Eligible for Disaster Relief. When a property owner has filed for disaster relief and deferral of the next property tax bill installment, but the real property is *not* eligible for disaster relief, to avoid a delinquent tax bill penalty, this bill provides that the property tax bill must be paid on the later of either:

- December 10 for the first installment or April 10 for the second installment, or
- Within 30 days of the latter of the date of mailing or postmark date on the county assessor's notice.[49]

In General: Secured property tax bills are mailed in October and may be paid in two installments. The first installment is due November 1[50] and becomes delinquent if not paid by December 10.[51] The second installment is due February 1[52] and becomes delinquent if not paid by April 10.[53]

In addition to the deferral of the next installment of property taxes, a county board of supervisors may enact an ordinance that allows additional deferral of property taxes for property that has been damaged in a disaster for which the Governor proclaimed a state of emergency:

[44] RTC section 2610.5.
[45] RTC section 194.1(a).
[46] See Letter To Assessors No. 86/33.
[47] RTC section 194.1(b).
[48] RTC section 194.1(b)(1).
[49] RTC section 194.1(b)(2).
[50] RTC section 2605.
[51] RTC section 2617.
[52] RTC section 2606.
[53] RTC section 2618.

- Deferral of unpaid non-delinquent current fiscal year supplemental roll taxes on eligible property reassessed for a change in ownership or completion of new construction.[54]

- Postponement of the second consecutive installment of taxes of property on the regular secured roll until the next property tax installment payment date.[55]

Background: Government Code section 8625 authorizes the Governor to proclaim a state of emergency under specified circumstances. Government Code section 8558 establishes three conditions under which the Governor may proclaim a state of emergency:

1. "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

2. "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state.

3. "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city.

Generally, major disasters such as earthquakes, firestorms, storm damage, or flooding satisfy the second condition described as a "state of emergency."

In September, October, and December 2017, wildfires burned property resulting in the Governor proclaiming a state of emergency in Butte, Lake, Los Angeles, Madera, Mariposa, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Solano, Sonoma, Tulare, Ventura, and Yuba Counties.[56]

Commentary:

1. **Author's Statement.** "Current law puts people in a position of having to choose between applying for relief and getting charged late fees if they don't qualify, or paying up front. This puts more financial stress on people who are already facing a tough situation. AB 3122 ensures people affected by disasters won't get penalized if they apply for reassessment and deferral and end up not qualifying."

2. **Summary of Amendments.** The **April 2, 2018** amendments clarified that when property taxes have been deferred, the taxes are due the later of (1) the date of the 1st or 2nd installment, or (2) 30 days after either a corrected tax bill has been mailed or the property owner has received a notification of ineligibility for disaster relief. The **April 16, 2018** amendment clarified that, for property that is not eligible for disaster

[54] RTC section 194.9.
[55] RTC section 195.1.
[56] See Board of Equalization's List of Governor-Proclaimed Disasters.

relief or deferral, property taxes are due on either December 10 for the first installment or April 10 for the second installment, or within 30 days of the latter of the date of mailing or postmark date on the assessor's notice, whichever is later.

3. **Property must be physically damaged to be eligible for disaster relief.** To qualify for disaster relief reassessment, property must be physically damaged, and the damage must be at least $10,000. To qualify for deferment, real property or a manufactured home that is eligible for the homeowners' exemption must have damage amounting to at least 10 percent of its fair market value or $10,000, whichever is less. For all other property, damage must be at least 20 percent of its fair market value immediately preceding the disaster causing the damage.

4. **Deferral of property taxes is a joint effort between the county assessor and county tax collector.** Claims for property tax disaster relief and deferment of property taxes are filed with the county assessor, while property tax bills are mailed by the county tax collector. The county assessor determines whether property is eligible for disaster relief and deferment of taxes. The county tax collector applies the delinquency penalty if necessary and mails the property tax bills.

5. **Timing of disaster impacts payment of property tax bill.** Issues arose when properties were damaged by wildfires in September, October, and December 2017. The first installment of property taxes was due November 1 and had to be paid by December 10, 2017 to avoid a delinquent payment penalty. Some assessors had difficulty identifying and reassessing damaged property by the December 10 deadline, resulting in some properties not being identified as ineligible for disaster relief until after the December 10 deadline passed. In these instances, property owners received delinquency penalties for nonpayment of property taxes when they did not know they were ineligible for disaster relief and had failed to pay the taxes by the December 10 deadline.

6. **Notification of ineligibility for disaster relief.** RTC section 170 requires the county assessor, upon receiving a proper application, to appraise the damaged property and determine the full cash value of land, improvements and personalty immediately before and after the damage or destruction. If the damage exceeds $10,000, the assessor must reduce the values on the assessment roll by the percentages of damage or destruction. RTC section 170 also requires the county assessor to notify the applicant of the amount of the proposed reassessment. However, current law is silent on situations where the property owner applies for, but ultimately is not eligible for disaster relief. In addition to its other provisions, this bill requires county assessors to notify property owners when they do not qualify for disaster relief and deferment.

Senate Bill 1115 (Hill), Chapter 694
Welfare Exemption: Low Income Housing

Effective January 1, 2019.
Amends section 214 of, and adds section 214.19 to, the Revenue and Taxation Code.

Summary: This bill increases the assessed value exemption cap from $10,000,000 to $20,000,000 that is applicable to certain low-income rental housing properties owned by nonprofit organizations under the welfare exemption and provides for the cancellation of taxes, interest, or penalties.

Former Law: Existing law provides that low-income rental housing owned and operated by a qualifying nonprofit organization[57] may be exempt from property tax under the welfare exemption, provided various conditions and requirements are met. The law allows an unlimited exemption for rental housing owned by a nonprofit organization if it receives government financing or low-income housing tax credits.[58] However, the law limits the exemption to the first $10,000,000 in assessed value statewide[59] on any rental property owned by the nonprofit that does not receive government financing or tax credits.

Amended Law:

Increases Exemption Cap. This bill increases the assessed value exemption cap to $20,000,000 for non-government assisted low-income rental housing owned and operated by eligible nonprofit organizations. *RTC section 214(g)(1)(C)*

Cancellation of Outstanding Taxes. This bill authorizes the cancellation of any outstanding tax, interest, or penalty levied or imposed on these organizations from January 1, 2017 to January 1, 2019, inclusive, to the extent that the amount canceled does not result in a total assessed value exemption amount in excess of $20,000,000. *RTC section 214.19(b)(1)*

In General:

Government Financing or Tax Credits: Unlimited Exemption. When a nonprofit organization owns and operates a low-income rental housing property that receives government financing or low-income housing tax credits, all of these properties may be exempt from property tax. Generally, a low-income rental housing property[60] may qualify for the welfare exemption provided:

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[57] A qualified organization may also be an eligible limited liability company or a limited partnership in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company.
[58] Revenue and Taxation Code (RTC) sections 214(g)(1)(A) and 214(g)(1)(B).
[59] RTC section 214(g)(1)(C).
[60] Such property may include single-family residences, multifamily residences (e.g., duplex, triplex, fourplex), and apartment complexes.

- **Occupancy.** While there is no minimum percentage of units that must be occupied by lower-income households, the exemption only extends to the units serving lower-income households. *RTC section 214(g)(1)*

- **Government Assistance.** The nonprofit organization owner receives low-income housing tax credits or government financing on the property. *RTC section 214(g)(1)(A) and (B)*

- **Use Restriction.** The property is subject to a recorded deed restriction, regulatory agreement, or "other legal document" restricting its use for low-income housing purposes at specified rents. *RTC section 214(g)(2)(A)(i) and Property Tax Rule 140*

- **Rents Charged.** The rents charged to lower income household occupants do not exceed the rent prescribed by the deed restrictions or regulatory agreement. *RTC sections 214(g)(1)(A) and (g)(2)(A)(i)*

- **Property Tax Savings.** The owner certifies that the funds otherwise spent to pay taxes are instead used to maintain affordability of, or reduce rents for, units occupied by the lower income households. *RTC section 214(g)(2)(B)*

- **Limited Partnership: Special Requirements.** In the case of housing owned by a limited partnership in which the managing general partner is an eligible nonprofit organization, use and rent restrictions must be contained in a recorded deed restriction or regulatory agreement. An "other legal document" is not allowed for a limited partnership. *RTC section 214(g)(2)(A)(ii) and Property Tax Rule 140*

No Government Assistance: Capped Exemption. When a nonprofit organization owns and operates a low-income housing property that does not receive any government financing or low-income housing tax credits, an exemption is available, but these properties are subject to a statewide cap. The exemption is capped at the first $10,000,000 of assessed value. If it does not exceed the exemption cap, a particular low-income housing property may qualify for the welfare exemption provided:

- **Occupancy.** Ninety percent or more of the property's occupants are lower income households, as specified. With respect to the remaining occupancy, the law allows an exemption equal to the percentage of units serving lower-income households. For example, a 100 percent exemption would be allowed if all the units were occupied by low income households. *RTC sections 214(g)(1) and 214(g)(1)(C)*

- **Use Restriction.** The property is subject to an "other legal document" restricting the property's use to low-income housing. *RTC section 214(g)(2)(A)(i) and Property Tax Rule 140*

- **Rents Charged.** The rent charged does not exceed that prescribed in Health and Safety Code Section 50053. *RTC section 214(g)(1)(C)*

- **Property Tax Savings.** The owner certifies that the funds otherwise spent to pay taxes are instead used to maintain the affordability of, or reduce rents for, units occupied by the lower income households. *RTC section 214(g)(2)(B)*

- **Limited Partnerships: Prohibited.** Limited partnerships with a nonprofit organization serving as the managing general partner are not eligible for exemption under this provision. *RTC section 214(g)(1)(C)*

Background: Historical Qualifications. Prior to January 1, 2000, nonprofit organizations could qualify for a property tax exemption for low-income rental housing by meeting *one* of the following requirements:

1. **Occupancy.** At least 20 percent of the occupants were persons with low income.

2. **Government Financing.** The project was financed with tax-exempt bonds, government loans, or grants.

3. **Tax Credits.** The nonprofit organization was eligible for and received low-income housing income tax credits.

More Stringent Qualifications. Beginning January 1, 2000, Assembly Bill 1559 (Stats. 1999, ch. 927) deleted mere "occupancy" by persons with low income as a qualifying condition for the welfare exemption. As a result, to receive a property tax exemption, the low-income housing property must either be financed with government funds or the owner must receive income tax credits on the property. Assembly Bill 1559 also imposed higher standards related to restrictive use documentation to substantiate that the property is dedicated to low-income housing. Accordingly, any deed restriction must be recorded, or a public agency must be a party to an enforceable and verifiable agreement regarding property use. Furthermore, "other legal documents" no longer sufficed to impose the necessary use restriction.

The Los Angeles Housing Law Project (Project) sponsored Assembly Bill 1559 to address welfare exemption abuse and misuse that permitted the owners of substandard housing properties to obtain a property tax exemption. In the course of investigating various substandard housing properties, this organization discovered that some properties were receiving the exemption under the provision that permits the property to qualify solely on the basis that the rents were low and the residents were low-income households. It was alleged that substandard housing owners were partnering with nonprofit organizations in a limited partnership as a ruse to obtain the welfare exemption or were themselves creating non-profit organizations. Presumably, the rationale for limiting the exemption to properties financed with tax-exempt bonds, government loans, or grants was that these properties would be subject to some level of government oversight, ensuring quality housing for the tenants and preventing creative property owners from obtaining the exemption to avoid paying any property tax.

Exemption Cap. Assembly Bill 1559's changes also revoked the exemption from charitable organizations providing adequate housing because they did not have government financing or tax credits. Consequently, the following year Assembly Bill 659 (Stats. 2000, ch. 601) reinstated exemption eligibility based on "occupancy" by low-income households with three changes:

1. **Occupancy Threshold.** The occupancy threshold was raised from 20 percent to 90 percent.
2. **Exemption Cap.** An exemption cap was created limiting the exemption amount applied to a taxpayer to $20,000 of tax.[61]
3. **Exclude Limited Partnerships.** Limited partnerships in which the managing general partner is an eligible nonprofit corporation were specifically excluded.

Since the exemption cap was created, few nonprofit organizations that own low-income rental housing have exceeded the cap. Many projects use government financing or tax credits and thus are not impacted by the cap. The purpose of making public financing a key condition of receiving a property tax exemption was to help ensure that only legitimate operators were benefiting from the exemption. The purpose of excluding limited partnerships was to prevent the owners of substandard housing from partnering with a nonprofit organization in a ruse to obtain the welfare exemption. The purpose of imposing a $20,000 of tax statewide cap when public financing does not apply was to limit the available exemption to owners that might misuse the exemption by creating a non-profit organization.

Consent Decree Property Exception. In 2004, the Long Beach Affordable Housing Coalition (LBAHC) unknowingly became impacted by the $20,000 of tax exemption cap. It purchased 12 developments using conventional bank financing. Public subsidies were unnecessary to buy the properties because they were acquired from another nonprofit organization on favorable terms. These properties mitigated the loss of affordable housing related to the construction of the Century Freeway (I-105) in Los Angeles County and had always been exempt from property taxes. Because there were no public subsidies, the properties became taxable, with a maximum exemption cap not to exceed $20,000 of tax. To remedy this issue, Senate Bill 1284 (Stats. 2008, ch. 524) modified the law to exclude the cap's application to these properties. Senate Bill 1284 also cancelled all outstanding taxes, including any related interest or penalties, on the properties.[62] SB 1284 did not include refunds because at that time, it was believed that no taxes had yet been paid. However, the lender had paid taxes to avoid a property sale due to tax delinquency. In 2010, Senate Bill 996 (Lowenthal) was introduced to allow the refund of taxes paid, but this bill was not enacted.[63]

In 2016, Senate Bill 996 (Stats. 2016, ch. 836) increased the exemption cap from $20,000 of tax to $10,000,000 in assessed value statewide for lien dates occurring on and after January 1, 2017 and provided for the cancellation of any outstanding ad valorem tax in excess of the $20,000 cap and any related penalties or interest imposed between January 1, 2013 and January 1, 2017.

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[61] $20,000 of tax is equivalent to $2,000,000 in assessed value, using a 1 percent tax rate.
[62] RTC section 214(g)(1)(D).
[63] RTC section 214.16.

Commentary:

1. **Summary of Amendments.** The **August 20, 2018** amendments increase the exemption cap to $20,000,000, rather than delete the cap, and move the provisions previously contained in RTC section 214.18 to RTC section 214.19 to avoid chaptering out issues with SB 1056. The **July 3, 2018** amendments modify the statement of legislative intent language to delete references to moderate income, which this bill does not address. No changes were made to either RTC section 214 or 214.18.

2. **No other property eligible for the welfare exemption is subject to an exemption cap.** The cap was instituted to address the exemption's misuse as it applied to low-income rental housing. In addition to the cap, other restrictions were enacted to reduce exemption abuse, such as excluding limited partnerships, requiring recorded deed restrictions, and requiring regulatory agreements with a public agency.

3. **Few organizations have exceeded the cap**. Most projects require government subsidies to be economically viable, making the cap inapplicable. When the cap impacted Long Beach Affordable Housing Coalition-owned properties, the Legislature enacted legislation to exclude the properties from any cap.

4. **The BOE requests and collects information on the statewide cap.** Nonprofit organizations report their holdings to the local assessor via the annual welfare exemption claim form, and the BOE requests that assessors annually provide the information to the BOE. For fiscal year 2016-17, 27 counties provided information. Of these 27 counties, 10 counties indicated that they granted exemptions to properties owned by organizations subject to the $20,000 exemption cap. The other 17 counties reported that there were no such properties in their county.

5. **$20,000 of Tax Exemption Cap.** For fiscal year 2016-17, according to information submitted to the BOE, 23 nonprofit organizations received exemptions on property that counted towards the $20,000 cap. These 23 organizations owned 55 low-income rental housing properties of various types in 10 counties. Three organizations, owning property in Los Angeles, Marin, and Monterey Counties, exceeded the cap and were partially taxable.

6. **$10,000,000 of Assessed Value Exemption Cap.** For fiscal year 2017-18, 18 counties submitted information to the BOE. This information indicates that 23 nonprofit organizations received exemptions on property that counted towards the $10,000,000 exemption cap. These 23 organizations own low-income rental housing properties of various types in 8 counties. Of these 23 organizations, none of the organizations exceeded the $10,000,000 cap.

Senate Bill 1172 (Beall), Chapter 790
Access to Assessors' Records: High-Speed Rail Authority

Effective January 1, 2019.

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

This analysis is limited in scope to its property tax assessment related provisions.

Summary: This bill, in part, allows the High-Speed Rail Authority to obtain or access otherwise confidential information held by the county assessor.

Former Law: Current law requires that assessors keep certain information confidential. Revenue and Taxation Code (RTC) section 408(a) contains the general confidentiality rule for county assessors and provides that homeowners' exemption claims and any information and records in the assessor's office that are *not required* by law to be kept or prepared by the assessor are not public documents and not open to public inspection. In addition, RTC sections 451 and 481 provide that all information requested by the assessor or furnished in the property statement and change in ownership information shall be "held secret" by the assessor.

Subdivision (b) of RTC section 408 provides an exception to the general rule of confidentiality for certain governmental agencies or representatives. It requires that the assessor disclose information, furnish abstracts, or permit access to all records in his or her office to those agencies or representatives specified.

Generally, the assessor is prohibited from disclosing any document related to the business affairs of another taxpayer. However, the assessor must disclose "market data" to a taxpayer if the assessor based the assessment of that taxpayer's property using comparable sales. In providing market data on comparable sales to a taxpayer, however, the assessor is still statutorily prohibited from displaying any document related to the business affairs or property of those taxpayers who own the properties used as comparable sales.[64]

Amended Law:

Access to Assessors' Records. This bill adds the High-Speed Rail Authority (Authority) to the list of state agencies to whom the assessor must disclose information, furnish abstracts, or permit access to records. This bill requires that the Authority reimburse the assessor for any costs incurred whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office. *RTC section 408(b)*

Confidential Records. This bill makes nonsubstantive changes to the prohibition on disclosing any document related to the business affairs or property of another taxpayer. *RTC sections 408(d) and (e)(3)*

[64] RTC sections 408, 408.1, and 408.2.

In General: RTC sections 408-408.3 grant to both the public at large and assessees the rights to inspect specific types of information in the assessors' records. Certain information kept by an assessor's office that is open, public information includes: the assessment roll, which includes the assessed value, ownership, location of property, as well as a notation of which properties receive the homeowners' exemption;[65] assessment maps;[66] a list of all transfers of property in the last two years;[67] and information maintained on property characteristics, including year built, square footage, number of bedrooms and baths, property use codes, etc.[68] In addition, welfare exemption claims are open to public inspection.[69]

For the assessee or his/her representative, all information related to the appraisal and assessment of his/her own property, including audit and roll change information, must be disclosed.

Mandated Confidential Information. There are a number of laws that require certain information maintained by an assessor's office to be kept confidential. Generally, the assessor is prohibited from disclosing any document related to the business affairs of another taxpayer. However, the assessor must disclose "market data" to a taxpayer if the assessor based the assessment of that taxpayer's property using comparable sales. In providing market data on comparable sales to a taxpayer, however, the assessor is still statutorily prohibited from displaying any document related to the business affairs or property of those taxpayers who own the properties used as comparable sales.[70]

Certain documents filed by taxpayers are statutorily required to be kept confidential. These are the property statement, the change in ownership statement, and the homeowners' exemption, parent-child exclusion, and certain base year value transfer claim forms which include social security numbers.[71]

Access to confidential information may be disclosed to select persons. The assessor may provide "appraisal data" to other California assessors and is required to permit access to all records in his or her office to certain governmental agencies.

Assessment appeals hearings before the assessment appeals board are statutorily required to be open to the public except that deliberations may be held in private. A taxpayer may request the appeals board to close a portion of the hearing if evidence is to be presented that relates to trade secrets which, if disclosed, would be detrimental to the business interests of the owner of the trade secrets.[72]

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[65] RTC sections 408.2, 602, and 1602.
[66] RTC section 327.
[67] RTC section 408.1.
[68] RTC section 408.3.
[69] RTC section 408; *Gallagher* v. *Boller* (1964) 231 Cal.App.2d 482.
[70] RTC section 408, 408.1, and 408.2.
[71] RTC section 408.2, 451, 481.
[72] RTC section 1605.4.

Commentary:

1. **California High-Speed Rail Authority.** The California High-Speed Rail Authority is responsible for planning, designing, building and operation of the first high-speed rail system in the nation. California high-speed rail will connect the mega-regions of the state, contribute to economic development and a cleaner environment, create jobs and preserve agricultural and protected lands. By 2029, the system will run from San Francisco to the Los Angeles basin in under three hours at speeds capable of over 200 miles per hour. The system will eventually extend to Sacramento and San Diego, totaling 800 miles with up to 24 stations. In addition, the Authority is working with regional partners to implement a state-wide rail modernization plan that will invest billions of dollars in local and regional rail lines to meet the state's 21st century transportation needs.[73]

2. **Summary of Amendments.** The **August 23, 2018** amendment added double-jointed language for Assembly Bill 2425. The **August 6, 2018** amendment deleted a code section not related to property tax assessment. The **June 18, 2018** amendments added provisions related to the High-Speed Rail Authority, including a provision that would allow the Authority access to assessors' records.

3. **Acquisition of Property via Eminent Domain.** Existing law created the High-Speed Rail Authority with specified powers and duties relative to development and implementation of a high-speed train system, including acquisition of rights-of-way through purchase and eminent domain. The Authority seeks access to assessors' records to help accurately estimate fair market value when acquiring real property for the high-speed rail project.

4. **Property Owner Displaced by Government Action.** California's system of property taxation values property at its 1975 fair market value, with annual increases limited to the inflation rate, as measured by the California Consumer Price Index, or two percent, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or completion of new construction, the value of the property for property tax purposes is reassessed based on current market value (called the "base year value"). Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value." Property owners who are displaced from property by governmental action may transfer the taken property's factored base year value to comparable replacement property, allowing the property owner to keep paying property taxes on the same assessed value as they previously paid.[74]

5. **Related Legislation.** Assembly Bill 2425 (Stats. 2018, ch. 968) also amends RTC section 408 to require assessors to transmit information, documents, or records by mail or in electronic format, if available.

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[73] http://www.hsr.ca.gov/.
[74] RTC section 68 and Property Tax Rule 462.500.

Senate Bill 1498 (Committee on Governance and Finance), Chapter 467
Audit Requirements

Effective January 1, 2019.

Among others, amends section 469 of the Revenue and Taxation Code.

This analysis is limited in scope to the property tax assessment related provisions.

Summary: This bill provides an alternative method of meeting the annual audit requirements to allow the assessor some discretion in the number of audits completed each fiscal year.

Former Law: Under existing property tax law, an annual ad valorem tax is imposed on all assessable property used in a trade or business. In determining these assessments each year, taxpayers typically report the cost of such property to the local county assessor on a "business property statement"; as provided for by Revenue and Taxation Code (RTC) section 441. The business property statement shows all taxable business property, both real and personal, which is owned, claimed, possessed, controlled, or managed by the person filing the property statement.

To encourage the accurate and proper reporting of such property, county assessors are required to annually audit a certain number of taxpayers in the county each year; the number varying by county. Of these required audits, 50 percent must be performed on taxpayers selected from a pool of those taxpayers that have the largest assessments of locally assessable trade fixtures and business tangible personal property in the county.[75] The remaining 50 percent of the required audits shall be selected in a manner that is fair and equitable to all taxpayers and may be based on evidence of underreporting as determined by the assessor.

For example, in a county where the assessor is required to conduct 100 audits per year, the assessor must conduct 50 audits of taxpayers from the pool of taxpayers with the largest assessments and 50 audits of other taxpayers, at a minimum each year.

Amended Law: This bill provides an alternative that allows the assessor discretion in the number of audits to be completed each fiscal year as long as the four-year total number of significant audits in each category are completed within a four-year period. This bill also provides that the first four-year period will begin with the 2019-20 fiscal year.

In General: **Audit Objective.** A property tax *audit* is a means of collecting data relevant to the determination of taxability, situs, and value of property. It is used to verify an assessee's reported cost on the required annual property statement and other information which may influence the assessment of taxable property. An *audit program* is a system used to select and conduct these audits. Both are used to sample property tax assessments to ensure that taxable property and

[75] Taxpayers in the pool of taxpayers with the largest assessments are required to be audited at least once within each four-year period following the latest fiscal year covered by a preceding audit.

related information have been accurately reported by the assessee and have been properly assessed by the assessor.

The primary objective of the property tax audit is to determine that a correct assessment has been made. The auditor applies generally accepted auditing standards and utilizes generally accepted accounting and appraisal principles in performing these audits. Audits, and the audit program as a whole, help to identify problems, correct inaccurate existing assessments, and increase the likelihood that future assessments will be accurate through improved reporting by the assessee and improved understanding of the property by the assessor's office.

Audit Selection. Property Tax Rule 192 prescribes the computation establishing minimum required audit production and provides the basis for the audit selection process. Letter To Assessors No. 2009/049 provides a list of the minimum annual property tax audits required to be conducted by each county, which includes the significant number of audits and the number of audits required from the pool of largest assessments.

Background: Assembly Bill 550 (Stats. 2008, ch. 297) amended RTC section 469 and became effective on January 1, 2009. This bill changed the requirements for what was commonly known as a *mandatory audit*. The bill deleted the requirement that an assessor must audit, at least once every four years, all taxpayers that own, claim, possess, or control locally assessable trade fixtures and business tangible property with a full value of $400,000 or more.

Commentary:

1. **Summary of Amendments.** The **August 6, 2018** amendments affect code sections not related to property tax assessment. The **June 19, 2018** amendments clarify that, for purposes of the alternative method, the four-year total of the significant number of audits may be audited at any time within the four-year period and that the first four-year period for this alternative method begins with the 2019-20 fiscal year.

2. **Alternative Manner to Satisfy Audit Requirements.** This bill provides an alternative that allows the assessor discretion in the number of audits to be completed each fiscal year as long as the four-year total number of audits *in each category* are completed within a four-year period. For example, in a small county where the assessor is required to conduct 10 audits per year, the assessor will now have the latitude to best use her/his resources to complete 40 required audits in a four-year period, rather than being required to conduct 10 audits (five audits of taxpayers from the pool taxpayers with the largest assessments and five audits of other taxpayers) each year.

3. **To "conduct" an audit or to "complete" an audit?** Existing law requires the assessor to *conduct* a significant number of audits each year, while this bill, as written, allows the assessor the discretion to *complete* the same four-year total number of audits required any time within the same four-year period. However, in the assessment context, the words *conduct* and *complete* can be understood to have very different meanings. To "conduct" an audit can mean to initiate the process of reviewing a taxpayer's books and records (including the use of a waiver to perform and complete the audit outside the

statute of limitations deadline) without requiring that audit findings be rendered and enrolled within the same fiscal year as the taxpayer was selected for audit. To "complete" an audit is commonly understood to mean that the audit must be both initiated and finished (audit findings rendered and enrolled, where applicable) within the same fiscal year as the taxpayer was selected for audit.

We also note that confusion exists under the current language of RTC section 469 as to whether the requirement that the assessor "conduct a significant number of audits" is intended to mean: (1) that an audit of the books and records must be completed (findings rendered and enrolled) within the fiscal year the taxpayer was selected for audit, or (2) that an audit must be completed or under a waiver of the statute of limitations in order to be counted. Thus, it may be beneficial to define "conduct" and "complete" in order to clarify what actions are required to meet the "conduct" standard and the "complete" standard, or to clarify that only one standard is intended and define that standard.

4. **More Stringent Requirements.** By requiring that the audits be *completed*, any audits in progress (findings not yet rendered and enrolled at the end of the four-year period, even if under waiver) would *not* be counted toward the number of audits the county is required to have completed within the four-year period.

Senate Constitutional Amendment 9 (Glazer), Resolution Chapter 1
Senate Bill 558, Chapter 1
New Construction Exclusion: Rain Water Capture System

Proposition 72 approved by voters on June 5, 2018
Amends section 2 of article XIII A of the California Constitution.
Adds section 74.8 to the Revenue and Taxation Code.
Applies to construction completed on or after January 1, 2019.

Summary: Subject to voter approval, for a ten-year period, excludes the installation of a rain water capture system from assessment as new construction.

Purpose: According to the author, to promote the construction of more rain water capture systems through a tax incentive.

Former Law: Under the California Constitution, all property is taxable unless specifically exempted, or authorized for exemption.[76] The Constitution limits the assessed value of property upon which the property tax is imposed. Generally, the law establishes a property's assessed value at its market value[77] on the date purchased (base year value) and requires additional assessments to reflect certain construction activities that qualify as "new construction."

New Construction. When substantial additions or alternations occur, the law requires the assessor to increase the assessment to reflect the value of "newly constructed" property.[78] The assessor assigns the assessable new construction with its own distinct base year value. The remainder of the property's assessment is unaffected and retains its base year value.[79]

New Construction Exclusions. The Constitution allows the Legislature to provide that the term "newly constructed" does not include certain construction activities. These are commonly called "new construction exclusions." Any value added by these additions or alterations is not subject to the property tax.

Amended Law: This constitutional amendment authorizes the Legislature to exclude from the definition of "newly constructed" the construction or addition of a rain water capture system.

Senate Bill 558 contains the necessary implementing provisions by adding section 74.8 to the Revenue and Taxation Code (RTC) to exclude, for a 10-year period, the addition or construction of a rain water capture system from being considered "new construction" subject to property tax

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[76] Article XIII, section 1 of the California Constitution.
[77] The assessed value is based on 1975 market value for property that has not changed ownership since that date.
[78] Article XIII A, section 2 of the California Constitution (Proposition 13) and Revenue and Taxation Code section 70. Additionally, "supplement assessment" laws make the new construction taxable as of the completion date.
[79] Unless the new construction replaces certain types of existing improvements, in which case the value attributable to those preexisting improvements is deducted from the property's existing base year value.

assessment. These provisions would apply to systems added between January 1, 2019 and January 1, 2029. Additionally, it extends the exclusion's benefit to the first-purchaser of a new building built with a rain water capture system in limited circumstances. This allows the first buyer to receive the exclusion's benefit which would otherwise terminate due to the property's sale (change in ownership).

These provisions will sunset on January 1, 2029 unless the Legislature subsequently extends this date.

In General: **California's Property Tax System.** Voters changed California's property tax system through Proposition 13, which replaced a current market value-based system with an acquisition value-based system. Under Proposition 13, real property assessed values were set at 1975 market value levels and future assessed value increases were limited to the inflation rate, not to exceed 2 percent, for as long as the property's ownership remains unchanged and the property is not substantively improved (i.e., new construction). Proposition 13 also limited the basic property tax rate to 1 percent plus voter- approved bonded indebtedness. The current system provides certainty to property owners regarding future property tax liability. The 2 percent maximum inflation adjustment ensures modest assessed value increases, assuming no ownership changes or substantive property improvements.

New Construction. The California Constitution does not define the terms "new construction" or "newly constructed." RTC section 70 defines these terms 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[80]" or that converts the property to a different use.

The BOE Assessors' Handbook Section 410, *Assessment of Newly Constructed Property*, provides detailed information.

Constitutional Amendments. Since Proposition 13, voters have approved numerous constitutional amendments to allow new construction exclusions and have rejected two, as detailed in the following tables.

[80] 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.

Measures approved include:

Prop.	Election	Property Improvements	RTC
8	November 1978	Disaster Reconstruction	§70(c)
7	November 1980	Solar Energy Systems	§73
31	November 1984	Fire Safety Systems and Fire Egress	§74
110	June 1990	Disabled Access Related Improvements (Residential)	§74.3
177	June 1994	Disabled Access Related Improvements (All Properties)	§74.6
1	November 1998	Environmental Contamination Reconstruction	§74.7
13	June 2010	Seismic Safety Retrofitting & Hazard Mitigation *Changes Proposition 23 and 127 and lifted 15 year limit*	§74.5
127	November 1990	Seismic Safety Retrofitting & Hazard Mitigation	§74.5
23	June 1984	Seismic Safety (Unreinforced Masonry – first 15 years)	§70(d) (Former)

Measures rejected include:

Prop.	Election	Property Improvements
34	November 1984	Historical Reconstructions (Homes)
178	June 1994	Water Efficiency Improvements

The Revenue and Taxation Code provides a new construction exclusion[81] related to underground storage tank upgrades made to comply with government standards. Unlike the others, this exclusion was not expressly authorized via a constitutional amendment and was categorized as normal maintenance and repair not assessable as new construction.

Exclusion v. Exemption. These provisions are not a real property tax "exemption" but a new construction "exclusion." The exclusion/exemption distinction is important for several reasons:

- Exclusions terminate if a transfer of the property results in a property's change in ownership (a reappraisal event).
- Exclusions only extend to the rain water capture system itself.
- Exclusions have limited applicability if the property is not assessed under Proposition 13's base year value standard. Examples of property subject to other preferential assessment standards include: Williamson Act, Farmland Security Zones, and Mills Act historical properties.

[81] RTC section 70(d)

- Exclusions are inapplicable to state-assessed property.

Commentary:

1. **Effect of the bill.** The installation of a rain water capture system completed on or after January 1, 2019 will have no property tax consequence.

2. **Summary of Amendments.** The **January 25, 2018** amendment added non-codified language that Senate Constitutional Amendment 9 is to be placed on the June 5, 2018 ballot. The **January 16, 2018** amendment of Senate Bill 559 added a sunset date of January 1, 2029 and a definition of rain water capture system. The **April 26, 2017** amendments changed the operative date to new construction completed on or after January 1, 2018 to January 1, 2019 in both measures. In the implementing statutory measure, the amendments delete references to specific rebate providers. As noted in the prior analysis, the listed providers were applicable to the solar exclusion.

3. **Rationale.** The author states that the goal of this property tax exclusion is to promote a significant expansion of rain water collection systems throughout the state. If more Californians store water, then the systems would reduce the effect of persistent droughts. Additionally, the author notes these systems benefit everyone, as they free up conventionally sourced water for others to use.

4. **A rain water system that is excluded from assessment remains so after the exclusion sunsets.** RTC section 74.8's repeal would not make a system benefiting from the exclusion immediately taxable. On occasion, there is a misperception that the system becomes taxable if the exclusion sunsets. Generally, new construction exclusions remain in effect until the property changes ownership, at which point the entire property, including the new construction exclusion portion of the property (or additional value), will be reassessed to its current market value pursuant to Proposition 13's change in ownership provisions. Thus, if RTC section 74.8 sunsets on January 1, 2029, a rain water capture system that previously received the new construction exclusion will not become assessable, absent any other change in circumstances.

5. **"Rain water capture system" definition.** Senate Constitutional Amendment 9 states that the Legislature will define a "rain water capture system. The definition that was added to Senate Bill 558 models the Rainwater Capture Act of 2012, Water Code Section 10573(d) which provides that "rainwater capture system" means a facility designed to capture, retain, and store rainwater flowing off a building rooftop for subsequent onsite use. The term "facility" implies a separate building, rather than a system added to an existing building. For property tax purposes, a system that is added would be considered an improvement, rather than a facility.

   The Los Angeles County Department of Public Health is one of the first agencies to develop detailed guidelines addressing alternative water sources: rainwater, graywater, stormwater and recycled water. The guidelines summarize rainwater system requirements for (1) outdoor or indoor use and (2) pressurized or non-pressurized systems. The guidelines provide insight into practical administrative questions that will arise in implementing the exclusion.

6. **The built-for-sale "first purchaser" provision in the constitutional amendment.** The implementing statute is modeled after the solar new construction exclusion implementing statute. The built-for-sale provisions in the solar exclusion were added decades after the initial solar-related constitutional amendment. The comparable "initial-purchaser limitation provision"[82] [RTC section 74.8(c)(2)] is complex and difficult to administer. The limitation only exists to cure the constitutional constraint that new construction exclusions end after a change in ownership.

7. **Administrative provisions limited to the built-for-sale scenario.** The implementing statute's detailed administrative provisions relate solely to the first purchaser of a new building.

[82] It relates to the supplemental assessment builder's exclusion and is keyed to the timing of certain events.

TABLE OF SECTIONS AFFECTED

SECTIONS	ACTION	BILL NUMBER	CHAPTER NUMBER	SUBJECT
California Constitution, Article XIII A				
§2	Amend	SCA 9	1	New construction exclusion, rain water capture systems
Government Code				
§15600	Amend	AB 1817	37	Transfer of duties from CDTFA to BOE
Revenue and Taxation Code				
§62	Amend	AB 2663	919	Change in ownership exclusions
§74.8	Add	SB 558	1	New construction exclusion, rain water capture systems
§95.50	Add	AB 1817	37	State Supplementation for County Assessors Program
§214	Amend	AB 1817	37	Transfer of duties from CDTFA to BOE
§214	Amend	SB 1115	694	Welfare exemption, low income housing
§215.1	Amend	AB 1817	37	Transfer of duties from CDTFA to BOE
§254.5	Amend	AB 1817	37	Transfer of duties from CDTFA to BOE
§254.6	Amend	AB 1817	37	Transfer of duties from CDTFA to BOE
§214.19	Add	SB 1115	694	Welfare exemption, low income housing
§408	Amend	AB 2425	968	Exchange of records in electronic format
§408	Amend	SB 1172	790	Access to assessors' records by High-Speed Rail Authority
§441	Amend	AB 2425	968	Exchange of records in electronic format
§469	Amend	SB 1498	467	Audit requirements alternative
§470	Amend	AB 2425	968	Exchange of records in electronic format
§480.1	Amend	AB 1817	37	Transfer of duties from CDTFA to BOE
§480.2	Amend	AB 1817	37	Transfer of duties from CDTFA to BOE
§194.1	Amend	AB 3122	149	Disaster relief deferral