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No. 2017/042

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TO COUNTY ASSESSORS:

CONSTRUCTION IN PROGRESS

The Governor recently signed Assembly Bill (AB) No. 652 (Stats. 2017, ch. 80), to provide that new construction acquires a base year value only when completed. These law changes, which went into effect on July 21, 2017, reinstate the Board of Equalization's longstanding guidance that construction in progress lien date values are not base year values. AB 652 addressed the decision in *Jon Virgil Ellis v. County of Calaveras* (2016) 245 Cal.App.4th 64 (*Ellis*) as previously discussed in Letter To Assessors (LTA) 2016/042, *Valuation and Appeal of New Construction in Progress*. This Letter To Assessors supersedes LTA 2016/042.

Neither *Ellis* nor AB 652 made any change to the valuation procedures for construction in progress annual assessments. Rather, both address whether the value so determined is branded a base year value.

AB 652 eliminates the need to revise Assessors' Handbook (AH) Section 410, *Assessment of Newly Constructed Property* (page 36), and AH Section 502, *Advanced Appraisal* (page 131) on this subject. AH Section 410 and AH Section 502 state that partially completed new construction does not acquire a base year value. Instead, new construction in progress is assessed at its market value on the lien date and on each successive lien date until it is completed. Upon completion, the entire portion of the property that is newly constructed is reappraised at its market value and acquires its own base year value. With the enactment of AB 652, the guidance in AH Section 410 and AH Section 502 remains valid.

AB 652 amends Revenue and Taxation Code¹ sections 50, 71, and 110.1 regarding when a base year value is established for new construction. AB 652 also adds section 82 to the Revenue and Taxation Code to detail the appeals filing period for construction in progress annual assessments and completion of new construction assessments.

Base Year Value

AB 652 amends section 50 to provide that the "value of new construction in progress shall not be a base year value until completion of that construction, as described in Section 71." Section 71 now specifies that "[n]ew construction in progress shall not acquire a base year value on each

¹ All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

lien date." Lastly, section 110.1(b) has been amended to state that "uncompleted new construction shall not acquire a base year value until completed, as described in Section 71."

Thus, these changes restore the concept that a construction in progress lien date assessment is not a base year value. These amendments do not change how construction in progress assessments are to be determined.

Assessment Appeals

Appeals periods differ for base year value assessments and annual market value-based assessments. Because of the long-term significance of a base year value, section 80 gives taxpayers four years to protest a base year value. In contrast, depending on the county, the appeals deadline for annual market value assessments is September 15 or November 30 of the same year. While a base year value appeal may be filed within four years, any relief resulting from the appeal is prospective only from the year in which the appeal is filed.²

AB 652 adds section 82 to the Revenue and Taxation Code and clarifies that appeals relating to the January 1 lien date assessment of construction in progress must be filed during the regular filing period of the same year. The regular filing period begins July 2 and ends either September 15 or November 30 (depending on the county).³ For example, if new construction is 50 percent complete on January 1, 2018, the lien date assessment of the partial construction that is enrolled for the 2018-19 fiscal year may be appealed during the 2018 filing period (July 2, 2018 to September 15 or November 30, 2018).

Section 82 also clarifies that appeals challenging the base year value of completed construction may be filed during the regular filing period (July 2 to either September 15 or November 30) or in any of the three succeeding years, pursuant to section 80. For example, a new structure is completed on August 15, 2017, and the assessor establishes a new base year value for the structure. The new base year value will be first enrolled on the January 1, 2018 lien date for the 2018-19 fiscal year. The new base year value may be appealed during the 2018 regular filing period, and during the regular filing period for the next three years – 2019, 2020, and 2021.

In addition, under section 1605, the property owner may file a base year value appeal within 60 days of the date of mailing printed on the notice of supplemental assessment or postmark date, whichever is later. In Los Angeles County and those counties that have adopted a resolution pursuant to section 1605(c), the 60-day period begins with the date of mailing printed on the tax bill or the postmark date of the tax bill, whichever is later.

² Section 80(a)(5).

³ The Board of Equalization annually issues a Letter To Assessors that provides the appeals filing deadline by county.

A copy of new section 82 and the amended versions of sections 50, 71, and 110.1 are enclosed. If you have any questions regarding this issue, please contact our County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung for

Dean R. Kinnee
Deputy Director
Property Tax Department

DRK:grs
Enclosure

Section 50 of the Revenue and Taxation Code as amended effective July 21, 2017:

50. For purposes of base year values as determined by Section 110.1, values determined for property which is purchased or changes ownership after the 1975 lien date shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership. Values determined after the 1975 lien date for property which is newly constructed shall be entered on the roll for the lien date next succeeding the date of completion of the new construction. The value of new construction in progress on the lien date shall be entered on the roll as of the lien date. *However, the value of new construction in progress shall not be a base year value until completion of that construction, as described in Section 71.*

Section 71 of the Revenue and Taxation Code as amended effective July 21, 2017:

71. The assessor shall determine the new base year value for the portion of any taxable real property which has been newly constructed. The base year value of the remainder of the property assessed, which did not undergo new construction, shall not be changed. New construction in progress on the lien date shall be appraised at its full value on *that* date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its full value, *and that value shall be the base year value. New construction in progress shall not acquire a base year value on each lien date.*

Section 82 is added to the Revenue and Taxation Code, effective July 21, 2017:

82. *An application for reduction in the value of new construction that is in progress on the lien date on the current roll may be filed during the regular filing period for that year as set forth in Section 1603 or 1840. An application for reduction in the base year value determined upon completion of new construction may be filed during the regular equalization period for the year in which the assessment is placed on the assessment roll or in any of the three succeeding years, as provided in Section 80.*

Section 110.1 of the Revenue and Taxation Code as amended effective July 21, 2017:

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property, including possessory interests in real property, means the fair market value as determined pursuant to Section 110 for either of the following:

- (1) The 1975 lien date.
- (2) For property which is purchased, is newly constructed, or changes ownership after the 1975 lien date, either of the following:
 - (A) The date on which a purchase or change in ownership occurs.
 - (B) The date on which new construction is completed, and if uncompleted, on the lien date.

(b) The value determined under subdivision (a) shall be known as the base year value for the property. *However, uncompleted construction shall not acquire a base year value until completed, as described in Section 71.*

(c) Notwithstanding Section 405.5, for property which was not purchased or newly constructed or has not changed ownership after the 1975 lien date, if the value as shown on the 1975–76 roll is not its 1975 lien date base year value and if the value of that property had not been determined pursuant to a periodic reappraisal under Section 405.5 for the 1975–76 assessment roll, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year; provided, however, that for any county over four million in population the board of supervisors may adopt a resolution granting the assessor of that county until June 30, 1981, the authority to determine those values. Regardless of the foregoing restrictions, property that escaped taxation for 1975 and was not merely underassessed for that year, shall be added to the roll in any year in which the escape is discovered at its 1975 base year value indexed to reflect inflation as provided in subdivision(f). In determining the new base year value for that property, the assessor shall use only those factors and indicia of fair market value actually utilized in appraisals made pursuant to Section 405.5 for the 1975 lien date. The new base year values shall be consistent with the values established by reappraisal for the 1975 lien date of comparable properties which were reappraised pursuant to Section 405.5 for the fiscal year. In the event that determination is made, no escape assessment may be levied and the newly determined "full cash value" shall be placed on the roll for the current year only; provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year.

(d) If the value of any real property as shown on the 1975–76 roll was determined pursuant to a periodic appraisal under Section 405.5, that value shall be the 1975 lien date base year value of the property.

(e) As used in subdivisions (c) and (d), a parcel of property shall be presumed to have been appraised for the 1975–76 fiscal year if the assessor's determination of the value of the property for the 1975–76 fiscal year differed from the value used for purposes of computing the 1974–75 fiscal year tax liability for the property, but the assessor may rebut that presumption by evidence that, notwithstanding the difference in value, that parcel was not appraised pursuant to Section 405.5 for the 1975–76 fiscal year.

(f) For each lien date after the lien date in which the full cash value is determined pursuant to this section, the full cash value of real property, including possessory interests in real property, shall be adjusted by an inflation factor, which shall be determined as provided in subdivision (a) of Section 51.