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STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-4982

September 25, 1992

TO COUNTY ASSESSORS:

No. 92/63

DECLINES IN VALUE
ASSESSMENT UNIFORMITY

The Members of the Board of Equalization continue to hear that property owners in some counties may not be receiving the property tax benefit they are entitled to as a result of Proposition 8. These economic times have resulted in the decrease of property values which is unparalleled since the passage of Proposition 13. The Board feels strongly that property owners entitled to reduced property taxes should receive priority from assessors at least equal to their other responsibilities. We recently issued Letter to Assessors 92/24, dated March 20, 1992, to ensure that those owners of property with factored base year values exceeding current market value receive the benefit of Proposition 8. This letter will stress the obligation of the assessor to inventory and process declines in value with the same diligence and resource expended on increases in values.

Taxpayers have proposed rule changes to the Board on how to address declines in value which they feel would be more directive to county assessors. However, at this time the Board feels the process of continuing to provide guidance and information through Letters to Assessors is the most effective and responsive way to address this issue.

Proposition 13 added Article XIII A to the California Constitution. Proposition 8 amended Article XIII A to require the assessor to recognize declines in value if the market value of the real property on March 1 falls below its factored base year value.

The first sentence of Section 1(a) of Article XIII A reads as follows:

> "The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property."

Proposition 8 amended Section 2(b) of Article XIII A of the California Constitution to read that:

> "The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value."

Section 51 of the Revenue and Taxation Code is the implementing legislation for Section 2(b). It reads in part:

> "For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall be the lesser of:
>
> "(a) Its base year value, compounded annually since the base year by an inflation factor, . . .
>
> "(b) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, <u>or other factors causing a decline in value</u>. (Emphasis added.)
>
> ". . .(e) For purposes of subdivisions (a) and (b), 'real property' means that appraisal unit which persons in the marketplace commonly buy and sell as a unit, or which are normally valued separately.
>
> "(f) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property."

Property Tax Rule 461(d) reads, in pertinent part:

> ". . . the assessor shall prepare an assessment roll containing the base year value appropriately indexed or the current lien date full value, whichever is less. . .In preparing such rolls the assessor is not required to make an annual reappraisal of all assessable property.
>
> ". . . When the current full value of property is less than its base year full value indexed to the current lien date, the full value shall be enrolled as the current taxable value."

The assessor's responsibility is to prepare an assessment roll which appropriately reflects both Constitutional and statutory provisions. Along with the responsibility to reassess property when a change in ownership or new construction occurs, the assessor has a responsibility to discover properties where assessments are in excess of their current value. Assessors are not required to annually appraise every assessable property. However, we urge assessors to be proactive in seeking particular property types, geographical areas of property, or categories of properties (such as those purchased at or near the peak of the real estate market) which require adjustment for declining value. We recognize the budgetary and workload problems assessors are facing throughout California but stress the need to properly allocate resources between the assessment decrease workload and the assessment increase workload.

Proactive suggestions for discovery of property with market values at levels below pending or actual assessed value include:

* Informational inserts to be included with future tax bills to alert taxpayers.

* Active public outreach program including information and public service announcements in radio, television, and newspapers.

* Surveys of geographical areas of property use-types suspected of experiencing declines in value.

* Reviewing assessment appeals to identify declining value trends.

* Reviewing assessments in areas where property owners have notified your office that their property has suffered a decline in value.

* Special mailings targeted to property owners to inform them of the potential for a reduction in their assessed value.

* Using automated sales ratio studies as a method of discovering geographical and use-types of property significantly impacted by the recession.

* Providing appropriate resource allocation for discovering and processing assessments declining in value. Resource management should create a level playing field for adjusting both decreases and increases of assessment.

For the most part, it is our impression that assessors have made it a high priority to provide declines in value relief where appropriate. By following some or all of the above suggestions, we believe all assessors can take the initiative to value declining properties appropriately.

The Board has asked that staff provide assistance to any county in reviewing their approach of identifying properties affected by declines in value. At the same time, they are aware that the California Assessors' Association is reviewing this issue and can offer assessors grappling with this issue advice on methods successfully used by counties.

If assessors believe certain aspects of this issue have been overlooked, please contact the Real Property Technical Services Unit at (916) 445-4982. The Board will schedule continued discussions on declines in value as necessary.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

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STATE BOARD OF EQUALIZATION
~~20 N STREET, SACRAMENTO, CALIFORNIA
~. BOX 1799, SACRAMENTO, CALIFORNIA 95808)
(916) 445-4982

May 23, 1986

No. 86/36

TO COUNTY ASSESSORS:

DECLINES IN VALUES ON FIRST LIEN DATE
(PROPOSITION 8)

We have received various inquiries about our recommended procedure for recognizing declines in value that occur subsequent to purchase date but before the first succeeding lien date.

Article XIII A, Section 2(a) of the Constitution says, in part:

> "'Full cash value' means the appraised value of property when purchased...or a change in ownership has occurred."

And Article XIII A, Section 2(b) of the Constitution says, in part:

> "...'full cash value base'...may be reduced to reflect...a decline in value."

However, Revenue and Taxation Code Section 50 says, in part:

> "...values determined for property which is purchased or changes ownership...shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership." (Emphasis added.)

The problem is apparent. If the assessor must enter on the roll the value ascribed to the property on its purchase date, then the decline in value that occurred between the purchase date and the lien date will not be recognized. It is the Board's position that a decline in value must be reflected on the first lien date under Section 2(b) of Article XIII A, and that Section 50 should be interpreted as the general rule, applicable only where no declines in value are involved.

In discussing the proper implementation of Section 2(b) of Article XIII A (Proposition 8) the courts have stated:

> "A fundamental rule of construction of any legal document is that the main object of the interpretation is to ascertain the intent of the parties who made the instrument and to give that intent the fullest effect possible consistent with the language of the provisions and the related body of law." (State Board of Equalization v. Board of Supervisors, 105 Cal. App. 3d 813.)

Further, the California Supreme Court in interpreting a previous constitutional amendment drew an analogy to interpreting a statute and stated:

> "[t]he intent prevails over the letter, and the letter will, if possible, be so read to conform to the spirit of the act." (Bakkenson v. Superior Court (1925) 197 Cal. 504, 511 [241 P. 874].)

Thus, the two constitutional sections previously cited (Article XIII A, 2(a) and 2(b)) clearly intend that a property's base year value is established at the ownership change date and that any subsequent value declines should be recognized. And, the courts have made it clear that the intent of the sections should be given the "fullest effect possible." Therefore, we recommend that assessors recognize value declines that might occur between purchase date and the next lien date by enrolling the lower value on the regular roll as an Article XIII A, Section 2(b) (Proposition 8) assessment.

Revenue and Taxation Code Section 75.10

Section 75.10 provides that the full cash value of a property on date of ownership change is the new base year value (commencing with the 1983-84 assessment year). This new base year value is used for both supplemental roll purposes and regular roll purposes. If there is a subsequent value decline, the new base year value remains and values can rise back to that level without the 2 percent per year limitation. Thus, where there is a loss of value before the first lien date, the amount entered on the regular assessment roll for the first time is simply an interim taxable value (Proposition 8) and not the new base year value. The new base year value will, of course, be used on the supplemental roll. And this amount will need to be maintained in the assessors' records for future calculation purposes.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

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