

ASSESSABLE NEW CONSTRUCTION

Linda Boehme, Senior Tax Consultant

This has become a very complex issue in California. In April 2004 the State Board of Equalization conducted a survey regarding this issue with County Assessors. A summary of what they found follows.

Substantial Equivalent of New

Any alteration of land, improvement or fixture since the last lien date that constitutes a major modernization and is determined to be the "substantial equivalent of new" is assessable new construction:

Threshold for Substantial Equivalent of New by Number of Counties:

90% of that of a new structure and at least 20% greater in value	1
85% of that of a new structure	1
80% of the value of new improvements	12
75% of the cost of new construction	2
50% is removed and replaced	1
Field inspection and appraiser judgment only	12
If an improvement it is torn down to the studs and rebuilt	5
An alteration that results in a change in use or increases the income potential	1
Makes an inhabitable improvement habitable.	1
All kitchen and bath remodels as the substantial equivalent of new	1

Construction in Progress

Assessors use either a percentage of market value based on the stage of completion or the cost of completed construction to value the construction in progress.

Negative Supplemental Assessment

Most Assessors reported that they enroll "negative supplemental assessments" for the removal of a structure from land. One Assessor commented that they process a negative supplemental assessment only if the removal is a stand-alone activity. If the removal is part of a larger new construction project, it does not process a negative supplemental assessment. Another Assessor reported that they do not enroll a negative supplemental assessment if only a portion of a structure is removed.

New Construction Exclusions

A new construction exclusion generally means the property owner who installs the improvement will not be assessed for it. The improvement that was initially excluded will become assessable when the property undergoes a change in ownership and a new base year value is established. Here is a list of new construction exclusions.

Continued ...

Exclusions

- *Remediation of contaminated property
- *Disaster relief
- *Seismic safety - unreinforced masonry buildings
- *Seismic safety retrofitting improvements
- *Underground storage tank
- *Active solar energy systems
- *Fire systems
- *Disabled persons accessibility - Single and Multi-family dwellings
- *Disabled persons accessibility - other buildings or structures
- *Builder's exclusion (supplemental assessment)
- *Manufactured homes taken by eminent domain

Disaster Relief and Substantial Equivalent of New: In determining if the reconstructed property is substantially equivalent to new, twenty-two Assessors mentioned size as a determining factor; of these, eight specified square footage. Seven Assessors specified quality class; one Assessor indicated that an increase of a single quality class rating is "substantially equivalent." Fourteen Assessors rely on field inspection and appraiser judgment. One Assessor reported that they use a threshold of 80 percent of new; another Assessor reported they follow the guidelines in section 69 (base year value transfer for properties substantially damaged or destroyed in a Governor-declared disaster), which provides a value threshold of 120 percent.

Contaminated Property: Twenty-five Assessors replied that they do not consider the remediation of mold contamination to be assessable new construction. Two Assessors indicated that the remediation is new construction. Eleven said it depended on the situation. Several Assessors reported they have not had this situation occur. Seventeen Assessors responded that the remediation of contaminated property is not assessable new construction. Ten Assessors reported that the remediation is new construction. Fifteen indicated that it depends on the situation. Those that indicated that it depends on the situation also commented that they review on a case-by-case basis. If the property's base year value reflects the contamination, then the remediation, if significant, is treated as new construction when the condition is remediated. If the property's base value does not reflect the contamination, it is considered a condition problem when discovered and the assessed value is reduced under Proposition 8. When the condition is remediated, the original base year value is restored. In addition, one Assessor commented that any improvements or equipment added to the property to prevent, reduce, or monitor future contamination should be new construction. Another Assessor noted that if the property were converted from uninhabitable/unusable to habitable/usable, they would consider adding for new construction.

It is obvious that there is NOT a lot of consistency in the way "new construction" is assessed in this state. Consequently, there is a lot of opportunity for value reductions in this area.

Smart marketing for a music teacher

According to a story that may or may not be true, the famous Polish pianist Ignacy Jan Paderewski (later Prime Minister of Poland) was abroad, visiting a small town where he was scheduled to give a concert. Taking a walk through one residential neighborhood, he heard music drifting through an open window. Someone was struggling with a Chopin nocturne and growing very frustrated.

On the front door of the house a sign read: "Piano Lessons. \$10/hour. Mrs. Jones." Paderewski knocked on the door, and Mrs. Jones herself answered. Once he'd introduced himself, he offered to give her a few lessons. After an hour, Mrs. Jones was much improved, and she thanked Paderewski profusely for the tips he'd given her on playing and teaching piano.

A year later Paderewski found himself in the same town, and he headed back to the house to say hello. On the door he found a new sign: "Piano Lessons. \$150/hour. Mrs. Jones (Student of Paderewski)."

TOOTING OUR HORN!



Although this is an informational newsletter, we would like to take the opportunity to brag about a sampling of our successes, from various industries, in the last quarter. These are a few examples of the refunds that our clients have received from the county, due to our work.

Personal Property

<i>Communications Mfg.</i>	\$32,243.
<i>Construction Contractors</i>	\$40,075.
<i>Chemical Mfg.</i>	\$27,260.
<i>Data Center</i>	\$44,151.
<i>Food Mfg.</i>	\$338,534.
<i>Forging Company</i>	\$362,843.
<i>Fruit & Vegetable Processing</i>	\$341,698.
<i>Grocery Stores</i>	\$184,082.
<i>Hospitals</i>	\$41,604.
<i>Meat Product Mfg.</i>	\$23,407.
<i>Paperboard Container Mfg.</i>	\$134,553.
<i>Recreational Vehicle Park</i>	\$110,099.
<i>Wire & Cable Mfg.</i>	\$43,739.

Real Property-California

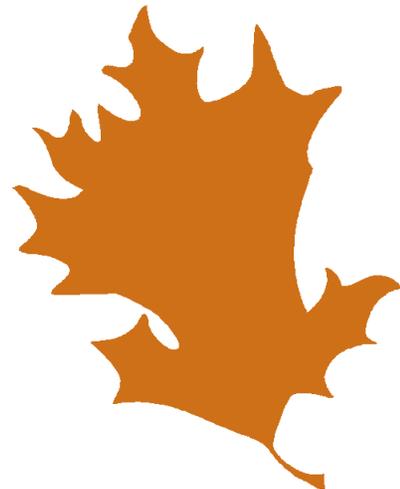
- Multifamily Property (2 Properties) - Alameda County - \$227,478
- Medical Office Property - San Bernardino County - \$8,495
- Multifamily Property (Storage Property (2 Properties) - Riverside County - \$15,025
- Storage Property - San Bernardino County - \$9,184
- Industrial Property - Ventura County - \$41,546
- Retail Property - Fresno County - \$7,259
- Multifamily Property - San Francisco County - \$26,151
- Multifamily Property - Los Angeles County - \$33,102
- Storage Property (2 Properties) - Sacramento County - \$18,228
- Industrial Property - Riverside County - \$29,727
- Storage Property - Ventura County - \$96,754
- Commercial Land - Riverside County - \$125,124
- Multifamily Property (4 Properties) - LA County - \$168,024
- Multifamily Property - (3 Properties) - Riverside County - \$230,870
- Industrial Property - San Diego County - \$20,075

Tax Tidbits

OUCH! 10% Late Filing Penalty!!

I missed filing my 571L Business Property Statement on time, now I have a 10% penalty, is there anything I can do to reduce it?

It is possible. An appeal must be filed and your case must be presented to the County Assessment Appeals Board. In order to be abated you must present evidence that the late filing was due to reasonable cause and not due to willful negligence. Property Tax Assistance has been successful fairly often. there are times we can reduce or abate the entire penalty and end up also getting you a refund on your taxes in the end. We work on a contingency, you only pay us if we are successful at getting you a refund or a savings. There is nothing for you to lose and we do all the work.



Life Without Proposition 13

March 25, 2012 By Jon Coupal

In Sacramento, where the political class feels they can never get enough money from taxpayers, Assemblyman Tom Ammiano has held another hearing on the "evil" Proposition 13, focusing on property tax protections for commercial property. But the intent is clear, as has been pointed out by taxpayer and small business advocate Joel Fox, the real target is all of Proposition 13. Ammiano's star witness, economist Christopher Thornberg has been quoted as saying, "I can't think of one reason in the world that Prop. 13 should exist." And Ammiano, himself, has said about Proposition 13, "If it takes an incremental approach, so be it ... my tendency is to want to nuke it."

So, suppose those on the far left, for whom the end of Proposition 13 would mean a world filled with lollipop trees, got their way. What would California be like? Cook County, Illinois may give us a clue. A study just released by the county treasurer, the Heartland Institute and the Illinois Public Policy Institute shows that over a ten year period, property taxes collected went up 48 percent, more than double the rate of inflation, 22.5 percent. John Northdurft of Heartland warned, "The property tax burden will skyrocket in the next decade, despite stagnant or declining home prices, because of growing public pension and benefit obligations." While the Policy Institute's Ted Dabrowski told a reporter the increases were "unsustainable" and would result in "financial collapse."

To understand the personal impact on average homeowners and small businesses of such a system, think back to California before Proposition 13, when property tax rates were nearly three times higher and there were no limits on annual increases. How many property owners could afford to pay more than twice their current tax bill? And who could budget for taxes in the coming year if the amount of increase were unknown in advance and there were no limits? But higher, unpredictable property taxes would not be the only result of the disappearance of Proposition 13. Proposition 13 requires a two-thirds vote of both houses of the Legislature to enact state tax increases. Even with Proposition 13, California ranks first in sales taxes, second in gas taxes, third in income tax rates and tenth in taxes per property unit.

Jerry Brown, who, with his new initiative, has declared war on average folks, through higher sales taxes, and on the successful, though higher income taxes, wouldn't have to go to the voters. Without the two-thirds vote requirement, his big spending allies in the Legislature would be glad to OK the nearly \$10 billion in higher taxes he is seeking. Once the money is in hand, is there anyone out there who believes the politicians would exercise restraint next time revenue falls short of their spending?

And let's not forget those "evil" businesses. California has always taxed residential and commercial property at the same rate. Politicians, government employee unions and far out, far left activists would love to increase the property tax burden on businesses, even though we are already experiencing a flight of firms to other states due to already high taxes and paralyzing regulations. These "gimme, gimme, gimme" interests conveniently overlook the fact that small businesses are the backbone of the California economy and it is these businesses that would suffer the most from an increase in property taxes. A new report from the Pepperdine University's Davenport Institute reveals that taxing business property without Proposition 13's limitations would result in \$71.8 billion in reduced economic activity and a loss of 398,345 jobs over the first five years, impacts that would increase over time. Much of the damage would be to small business.

So next time someone tells you how wonderful California would be without Proposition 13, be careful -- you're talking to someone who is unhinged from reality.

"Jon Coupal is President of the Howard Jarvis Taxpayers Association (HJTA), California's largest taxpayer advocacy organization. For more information on HJTA visit www.hjta.org. Reprinted with permission."



Quotes

A good laugh and a long sleep are the best cures in the doctor's book.

—Irish proverb

There are some people that if they don't know, you can't tell them.

—Louis Armstrong

I may not have gone where I intended to go, but I think I have ended up where I needed to be.

—Douglas Adams

Leaders must be close enough to relate to others, but far enough ahead to motivate them.

—John C. Maxwell

You don't choose your family. They are God's gift to you, as you are to them.

—Desmond Tutu

Happiness is a risk. If you're not a little scared, then you're not doing it right.

—Sarah Addison

Medicines may be necessary. Flowers lift the heart. But your smile is the best restorative of all.

—Pam Brown

Most people live and die with their music still unplayed. They never dare to try.

—Mary Kay Ash

Life isn't simple. But the beauty of it is, you can always start over. It'll get easier.

—Alicia Bessette

Motivation will almost always beat mere talent.

—Norman R. Augustine

Property Tax Update

AB 404

Brent Buskirk, Tax Consultant

AB404 drastically changes the property tax assessment appeal process for the worse.

In 2011, Assembly Member Mike Gatto (D-Burbank) proposed Assembly Bill (AB) 404, a law that would drastically change the property tax assessment appeal process for the worse. The bill first came about because of the corruption allegations against the Los Angeles County Assessor's Office, in which the county was accused of giving out illicit tax reductions to campaign contributors. Because one major contributor was a tax agent, AB 404 was introduced to enforce stark regulations against property tax agents and property tax agent firms.

The crux of the bill states that any county that regulates lobbying (which includes Los Angeles County) must adopt an ordinance regulating property tax agents and property tax agent firms. Such regulations would include annual registration, prohibition of political campaign contributions, quarterly reports to each Assessor's Office, and fees to cover the costs of regulations. Because the duties of each county would be increased, AB 404 would also impose a state-mandated local program. Local agencies are entitled to reimbursement by the state for certain state-mandated expenses per the California Constitution. While the exact fiscal effect of this bill is unknown, it could cost the state over \$50,000 in reimbursable costs to local governments.

Although the California Revenue and Taxation Code allows for taxpayers and tax agents to reduce property values through a variety of approaches, the language of AB 404 seems to confer a negative connotation on property tax agents. According to the bill, "Requiring those who lobby County Assessors to adhere to the same lobbying rules as those who lobby County Boards of Supervisors is a simple way to ensure that all are abiding by the same rules. This simple requirement would result in disclosure, to the media and public, of who is paying so-called 'tax agents' to obtain what are, in some cases, multi-million-dollar windfalls for their clients through favorable treatment by Assessors."

On August 29, 2012, AB 404 was defeated on the Senate Floor, with 13 Senators voting for the bill, 19 against, and 8 not voting. Although this is a huge success for both taxpayers and property tax agents, it may just be the first step in the government's effort to limit tax representation. Assembly Member Gatto may reintroduce the bill in 2013, which would require another battle on the part of taxpayers and tax agents. Periodically, PTA may send out requests for assistance in achieving the same outcome that we saw on August 29. These requests may include sending letters to government agencies or making phone calls to elected officials. If you would like more information about AB 404 or what you can do to help, please do not hesitate to contact us.

To be included in updates on how you can help defeat AB404 please email, your email address to LHenry@property-taxes.com and indicate you are signing up for the AB404 list.

PTA

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Property Tax Update



"They cut us up like boarding house pie. And that's real small pieces."
-Darrell Royal / Texas

"My advice to defensive players: Take the shortest route to the ball and arrive in a bad humor."
-Bowden Wyatt / Tennessee

"I've found that prayers work best when you have big players."
-Knute Rockne / Notre Dame

"You can learn more character on the two-yard line than anywhere else in life."
-Paul Dietzel / LSU