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# Implementation of Proposition 13 Volume I: Property Tax Assessment

Assembly Revenue and Taxation Committee

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IMPLEMENTATION OF PROPOSITION 13

VOLUME I

# PROPERTY TAX ASSESSMENT



OCTOBER 29, 1979

Prepared By Staff Of The  
ASSEMBLY REVENUE AND TAXATION COMMITTEE

WILLIE L. BROWN, JR.  
Chairman

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Implementation of Proposition 13

Volume I

PROPERTY TAX ASSESSMENT

An Analysis of the Provisions of  
Legislation Enacted in 1979 Which  
Provide an On-Going System of  
Property Tax Assessment Under  
Proposition 13

\*\* \*\* \*

AB 1488 (W. Brown and Hannigan)  
SB 17 (Holmdahl)  
AB 1019 (Hannigan)  
AB 1489 (Hannigan)  
AB 581 (Imbrecht)

\*\* \*\* \*

October 29, 1979

Prepared by Staff of the  
Assembly Revenue and Taxation Committee

Willie L. Brown, Jr.,  
Chairman

79-11-222

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VOLUME II\*

PREFACE  
DISTRIBUTION OF THE PROPERTY TAX  
THE DEFLATOR  
HEALTH AND WELFARE PROGRAMS  
EDUCATION FINANCE  
APPENDICES (Text of AB 8 et al)

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\* Available under separate cover from the Senate Local Government Committee, or from the Senate Publications Office.

## PREFACE

This report is Volume I of a two-volume series of reports by legislative committee staff on the statutory implementation of Proposition 13 by the California Legislature in 1979. Volume II addresses the new property tax allocation system, and the restructuring of state, school and local government finance in response to the fiscal constraints imposed by Proposition 13.

The purpose of this report is to provide the reader with a description of the statutes presently in effect which implement the new constitutional requirements for property tax assessment imposed by Proposition 13, and a sense of the evolution of and rationale for these statutory provisions.

The Background section gives an overview of former assessment procedures and the new dictates of Article XIII A, as well as a summary of events in 1978 and 1979 which led to the adoption of a "permanent" assessment system.

A subject-by-subject Analysis of Provisions follows. Under each subject, the applicable provisions are explained, with references made to the appropriate Revenue and Taxation Code sections and/or State Board of Equalization rules. An attempt has been made to compare the present law with its predecessor for the 1978-79 fiscal year under SB 154 and SB 2212, and to describe the rationale for the adoption or modification of the more substantive provisions.

There are four major groupings of Appendices. The first (pink paper) includes the present text of Article XIII A of the California Constitution and the ballot pamphlet analysis and arguments concerning both Propositions 13 and 8. The second (green paper) contains the statutes and Board rules as of October 2, 1978, which were applicable ONLY to the 1978-79 fiscal year. The third group (buff-yellow paper) gives the statutes and Board rules\* in effect on October 29, 1979, with respect to the 1979-80 fiscal year and thereafter. Finally, the last appendix (blue paper) lists the Proposition 13 related tax issues which are currently being litigated, and the status of these cases as of October 1979.

This report was prepared by Bob Leland, Consultant to the Assembly Revenue and Taxation Committee.

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\*The Board of Equalization rules are scheduled to be updated after November 3, 1979, to incorporate certain changes necessitated by the enactment of AB 1019, AB 1489, and AB 581, and make other revisions. Advance drafts indicate a major re-writing of some rules. Readers concerned with these changes should obtain an up-dated copy from the Board.

## BACKGROUND

### Assessment Law Before Proposition 13

Through the 1977-78 fiscal year, assessments for both real and personal property were generally predicated on the "fair market value" or "full cash value" of property, i.e., the price knowledgeable and willing buyers and sellers would agree upon for such a property, given its highest and best use. The assessor of each county had the constitutional mandate to assess all property subject to taxation according to its value as of each lien date (March 1).

In practice, fiscal and staffing constraints prohibited the assessor from physically reappraising all properties each and every year. Rather, reappraisals would be conducted on a periodic, cyclical basis, of every three to seven years. Between physical reappraisals, assessors would often apply interim value increases based on trending factors. Legislation which first took effect for the 1978 lien date required assessors to adopt an "orderly, sequential, cyclical appraisal or reappraisal of all property" of no more than every five years, with the intent that all properties in a county be appraised once before a property could be reappraised.

Since passage of the Assessment Reform Law, AB 80 of 1966, all property must be assessed at a uniform assessment ratio of 25% of fair market value. The effective ratio was usually less, however, due to the lag time in placing true market values on the tax roll. Especially since 1974, the skyrocketing residential real estate market had driven up the "real" values of homes far higher than the assessed value shown on the tax rolls.

Certain types of properties were accorded preferential assessment treatment under the Constitution: open space, agricultural lands, and historical properties subject to special contractual limitations on use; timberland zoned as timberland preserve; property owned by a government entity but located outside of its own boundaries; and nonprofit golf courses. Such properties were subject to valuation on current use, rather than their highest and best use, in some cases predicated on income from the property, rather than on sales of comparable properties. In addition, the value of single family dwellings was based on that use only, if located on property zoned exclusively for that use.

Except for properties subject to formula valuation based on current use, there was no limitation on the allowable increase in assessed value applied to any given property, market conditions warranting. Table I shows the trends of assessed value changes in recent years, before and after passage of Proposition 13. Tables II and III show assessed values by county for 1977-78 through 1979-80.

TABLE I

STATEWIDE TRENDS IN CALIFORNIA PROPERTY TAXATION  
1973-74 to 1979-80

	← Before Proposition 13 →					← After Prop. 13 →		(e)
	1973-74	1974-75	1975-76	1976-77	1977-78	1978-79	1979-80	
						Estimate Before (c) Prop. 13	Actual After (d) Prop. 13	
Assessed Value (a)	\$67,278	\$74,299	\$82,692	\$93,717	\$106,694	\$120,031	\$116,737	\$132,814
% Growth	7.1%	10.4%	11.3%	13.3%	13.8%	(f) 12.5%	9.4%	13.8%
Statewide Average Tax Rate (per \$100 of assessment value)	\$11.15	\$11.24	\$11.33	\$11.19	\$10.68	\$10.40	\$4.79	\$4.74
Total Property Tax Revenue (in millions) (b)	\$7,501	\$8,351	\$9,369	\$10,487	\$11,395	\$12,483	\$5,592	\$6,295
% Growth	4.2%	11.3%	12.2%	11.9%	9.2%	9.5%	-49.1%	12.6%

(a) assessed value "net of all other exemptions" besides the homeowners' and business inventory exemptions

(b) property tax revenue plus state subventions for homeowners' and business inventory exemptions

(c) estimated figures for 1978-79 IF Prop. 13 had not been enacted

(d) ACTUAL figures for 1978-79 under Prop. 13

(e) estimates

(f) Timber was first exempted in 1977-78; if timber was excluded from 1976-77 assessed value to make comparison on an equal basis, the increase would be 14.2%, not 13.8%.

Source: State Board of Equalization



TABLE II

GROWTH IN ASSESSED VALUE, 1977-78 TO 1978-79  
 INCLUDES STATE AND LOCALLY ASSESSED PROPERTY  
 INCLUDES HOMEOWNERS AND BUSINESS INVENTORY EXEMPTIONS  
 EXCLUDES ALL OTHER EXEMPTIONS  
 All Values in Thousands

COUNTY	1977-78 A.V.	CHANGE IN		1978-79 A.V. AS OF 4/79	% CHANGE FROM 1977-78 TO 1978-79 AS OF 4/79
		1978-79 A.V. AS OF 9/78	1978-79 A.V. 9/78-4/79		
Alameda	\$ 5,287,512	\$ 5,344,290	\$ 16,419	\$ 5,360,709	1.4Z
Alpine	16,732	17,378	- 46	17,332	3.6
Amador	117,027	127,853	- 634	127,219	8.7
Butte	564,938	652,867	- 1,156	651,711	15.4
Calaveras	130,372	136,330	- 602	135,728	4.1
Colusa	140,754	157,468	- 758	156,710	11.3
Contra Costa	3,720,494	4,085,252	- 19,756	4,065,496	9.3
Del Norte	69,261	83,086	- 54	83,032	19.9
El Dorado	416,315	519,194	- 6,366	512,828	23.2
Fresno	2,112,104	2,656,275	- 6,612	2,649,663	25.5
Glenn	151,063	193,111	- 7,602	185,509	22.8
Humboldt	474,129	532,865	- 624	532,241	12.3
Imperial	383,135	392,194	- 733	392,927	2.6
Inyo	123,688	136,621	- 822	135,799	9.8
Kern	2,624,873	3,019,640	- 71,498	2,948,142	12.3
Kings	318,736	332,834	- 3,385	329,449	3.4
Lake	174,303	181,192	- 9,536	190,728	9.4
Lassen	85,570	93,578	- 185	93,393	9.1
Los Angeles	31,289,965	32,594,122	2,770,362	35,364,484	13.0
Madera	314,563	340,355	- 506	340,861	8.4
Marin	1,488,132	1,393,857	- 9,995	1,403,852	- 5.7
Mariposa	62,093	63,087	- 298	62,789	1.1
Mendocino	290,387	355,662	- 893	356,555	22.8
Merced	528,243	647,933	- 1,119	649,052	22.9
Modoc	65,726	81,562	- 127	81,435	23.9
Mono	101,826	108,109	- 186	107,923	6.0
Monterey	1,516,398	1,610,973	- 1,161	1,609,812	6.2
Napa	484,352	481,889	- 350	481,539	- .6
Nevada	241,164	259,926	- 142	259,784	7.7
Orange	10,168,401	10,333,345	- 24,685	10,308,660	1.4
Placer	524,437	639,499	- 3,417	636,082	21.3
Plumas	148,053	168,644	- 209	168,435	13.8
Riverside	2,433,833	2,878,351	- 10,422	2,867,929	17.8
Sacramento	2,487,222	2,961,808	- 745	2,961,063	19.1
San Benito	123,021	138,434	- 375	138,059	12.2
San Bernardino	3,054,723	3,383,199	- 22,168	3,405,367	11.5
San Diego	7,507,473	7,885,300	- 10,202	7,895,502	5.2
San Francisco	3,679,181	4,025,181	- 29,339	3,995,842	8.6
San Joaquin	1,436,429	1,669,022	- 8,858	1,677,880	16.8
San Luis Obispo	747,258	897,132	- 2,312	894,820	19.7
San Mateo	3,863,871	4,026,317	- 4,691	4,021,626	4.1
Santa Barbara	1,402,530	1,554,016	- 9,565	1,544,451	10.1
Santa Clara	6,502,241	6,781,326	- 33,049	6,814,375	4.8
Santa Cruz	844,876	877,346	- 3,296	874,050	3.5
Shasta	477,838	545,384	- 9,637	555,021	16.2
Sierra	19,718	25,011	- 305	24,706	25.3
Siskiyou	194,785	218,420	- 1	218,419	12.1
Solano	823,363	889,604	- 5,025	884,579	7.4
Sonoma	1,259,769	1,461,443	- 3,096	1,464,539	16.3
Stanislaus	1,022,033	1,280,319	- 2,801	1,277,518	25.0
Sutter	299,006	328,188	- 152	328,340	9.8
Tehama	164,799	179,526	- 1,949	177,577	7.8
Trinity	50,482	58,977	- 437	59,414	17.7
Tulare	878,611	930,597	- 3,387	933,984	6.3
Tuolumne	148,549	177,745	- 144	177,601	19.6
Ventura	2,449,784	2,381,901	- 1,445	2,383,346	- 2.7
Yolo	551,580	598,961	- 4,915	603,876	9.5
Yuba	136,731	157,470	- 407	157,063	14.9

TABLE III

GROWTH IN ASSESSED VALUE, 1978-79 TO 1979-80 FOR STATE AND LOCALLY ASSESSED PROPERTY  
INCLUDES HOMEOWNERS AND BUSINESS INVENTORY EXEMPTIONS; EXCLUDES ALL OTHER EXEMPTIONS

All Values in Thousands

	1978-79 Assessed Value			1979-80 Assessed Value			% Change From 1978-79 to 1979-80		
	Locally Assessed	State Assessed	Total	Locally Assessed	State Assessed	Total	Locally Assessed	State Assessed	Total
Alameda	\$ 5,082,365	\$ 278,344	\$ 5,360,709	\$ 5,408,259	\$ 290,556	\$ 5,698,815	6.4%	4.4%	6.3%
Alpine	14,995	2,337	17,332	16,659	2,383	19,042	11.1	2.0	9.9
Amador	101,841	25,378	127,219	122,162	27,216	149,378	20.0	7.2	17.4
Butte	585,693	66,018	651,711	665,090	69,570	734,660	13.6	5.4	12.7
Calaveras	122,868	12,860	135,728	142,053	13,888	155,941	15.6	8.0	14.9
Colusa	144,630	12,080	156,710	155,740	12,770	168,510	7.7	5.7	7.5
Contra Costa	3,770,980	294,516	4,065,496	4,090,710	290,662	4,381,372	8.5	-1.3	7.8
Del Norte	79,565	3,467	83,032	89,969	3,855	93,824	13.1	11.2	13.0
El Dorado	485,090	27,738	512,828	592,172	31,117	623,289	22.1	12.2	21.5
Fresno	2,390,559	259,104	2,649,663	2,725,252	289,355	3,014,607	14.0	11.7	13.8
Glenn	171,970	13,539	185,509	178,932	14,444	193,376	4.0	6.7	4.2
Humboldt	490,063	42,178	532,241	534,050	45,015	579,065	9.0	6.7	8.8
Imperial	371,254	21,673	392,927	403,116	22,984	426,100	8.6	6.0	8.4
Inyo	123,631	12,168	135,799	137,433	13,210	150,643	11.2	8.6	10.9
Kern	2,779,316	168,826	2,948,142	3,378,263	185,255	3,563,518	21.6	9.7	20.9
Kings	303,079	26,370	329,449	366,741	27,473	394,214	21.0	4.2	19.7
Lake	178,422	12,306	190,728	207,601	17,137	224,738	16.4	39.3	17.8
Lassen	81,229	12,164	93,393	93,694	13,010	106,704	15.3	7.0	14.3
Los Angeles	33,737,797	1,626,687	35,364,484	37,424,038	1,720,561	39,144,599	10.9	5.8	10.7
Madera	300,227	40,634	340,861	368,354	44,865	413,219	22.7	10.4	21.2
Marin	1,353,504	50,348	1,403,852	1,571,980	55,087	1,627,067	16.1	9.4	15.9
Mariposa	58,331	4,458	62,789	67,560	5,024	72,584	15.8	12.7	15.6
Mendocino	335,182	21,373	356,555	378,173	22,921	401,094	12.8	7.2	12.5
Merced	608,247	40,805	649,052	684,281	43,063	727,344	12.5	5.5	12.1
Modoc	72,276	9,159	81,435	74,668	9,689	84,357	3.3	5.8	3.6
Mono	100,200	7,723	107,923	120,517	7,998	128,515	20.3	3.6	19.1
Monterey	1,468,924	140,888	1,609,812	1,492,959	140,124	1,633,083	1.6	-0.5	1.4
Napa	460,946	20,593	481,539	548,276	21,885	570,161	18.9	6.3	18.4
Nevada	235,314	24,470	259,784	301,683	25,916	327,599	28.2	5.9	26.1
Orange	9,910,527	398,133	10,308,660	11,685,142	408,102	12,093,244	17.9	2.5	17.3
Placer	577,159	58,923	636,082	718,560	63,189	781,749	24.5	7.2	22.9
Plumas	105,505	62,930	168,435	122,870	69,081	191,951	16.5	9.8	14.0
Riverside	2,702,378	165,551	2,867,929	3,325,016	179,521	3,504,537	23.0	8.4	22.2
Sacramento	2,803,761	157,302	2,961,063	3,297,749	181,161	3,478,910	17.6	15.2	17.5
San Benito	126,748	11,311	138,059	143,336	12,079	155,415	13.1	6.8	12.6
San Bernardino	3,026,617	378,750	3,405,367	3,643,652	406,518	4,050,170	20.4	7.3	18.9
San Diego	7,318,881	576,621	7,895,502	8,867,802	693,992	9,561,794	21.2	20.4	21.1
San Francisco	3,723,233	272,609	3,995,842	4,054,257	303,904	4,358,161	8.9	11.5	9.1
San Joaquin	1,540,468	137,412	1,677,880	1,795,276	143,465	1,938,741	16.5	4.4	15.5
San Luis Obispo	642,065	252,755	894,820	782,665	263,032	1,045,697	21.9	4.1	16.9
San Mateo	3,890,619	131,007	4,021,626	4,260,160	138,777	4,398,937	9.5	5.9	9.4
Santa Barbara	1,466,231	78,220	1,544,451	1,679,283	82,409	1,761,692	14.5	5.4	14.1
Santa Clara	6,572,369	242,006	6,814,375	7,572,398	256,631	7,829,029	15.2	6.0	14.9
Santa Cruz	841,036	33,014	874,050	994,169	34,955	1,029,124	18.2	5.9	17.7
Shasta	448,005	107,016	555,021	520,535	112,642	633,177	16.2	5.3	14.1
Sierra	22,132	2,574	24,706	25,512	2,891	28,403	15.3	12.3	15.0
Siskiyou	190,862	27,557	218,419	218,859	28,994	247,853	14.7	5.2	13.5
Solano	828,798	55,781	884,579	989,934	59,366	1,049,300	19.4	6.4	18.6
Sonoma	1,375,131	89,408	1,464,539	1,587,105	102,939	1,690,044	15.4	15.1	15.4
Stanislaus	1,225,928	51,590	1,277,518	1,441,287	55,106	1,496,393	17.6	6.8	17.1
Sutter	309,938	18,402	328,340	348,471	19,705	368,176	12.4	7.1	12.1
Tehama	155,193	22,384	177,577	190,433	23,732	214,165	22.7	6.0	20.6
Trinity	52,643	6,771	59,414	56,351	6,830	63,181	7.0	0.9	6.3
Tulare	861,997	71,987	933,984	1,018,020	76,184	1,094,204	18.1	5.8	17.2
Tuolumne	159,812	17,789	177,601	190,837	19,546	210,383	19.4	9.9	18.5
Ventura	2,219,825	163,521	2,383,346	2,709,055	170,094	2,879,149	22.0	4.0	20.8
Yolo	567,109	36,767	603,876	630,738	38,380	669,118	11.2	4.4	10.8
Yuba	141,085	15,978	157,063	166,292	17,773	184,065	17.9	11.2	17.2
<b>TOTALS</b>	<b>\$109,814,553</b>	<b>\$6,922,273</b>	<b>\$116,736,826</b>	<b>\$125,376,149</b>	<b>\$7,439,031</b>	<b>\$132,814,180</b>	<b>14.2%</b>	<b>7.5%</b>	<b>13.8%</b>

## New Rules of the Game

The passage of Proposition 13 on June 6, 1978, dramatically changed the rules of the game by which property tax assessments are played in California (see Appendix I for current text of Article XIII A, and Appendix II for ballot arguments for Proposition 13).

Although the most renowned provision may have been its slashing of property tax rates due to its limitation of property taxes to one percent of full cash value of real property (Section 1 of Article XIII A), the provision which has caused unending controversy since its passage has been the assessment restrictions of Section 2(a). This section essentially defines "full cash value", and as originally enacted by Proposition 13 read as follows:<sup>1</sup>

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 full cash value may be reassessed to reflect that valuation.

Section 2(b) of Article XIII A provides for an annual inflationary adjustment not to exceed two percent, and originally read as follows:<sup>1</sup>

---

1. Proposition 8 of the November 1978 ballot further revised Article XIII A; Section 2(a) was amended by substituting "full cash value" for "tax levels"; a change ultimately turning out to be more cosmetic than substantive.

Proposition 8 also added the following language to Section 2(a):

For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster.

and to the end of Section 2(b):

or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

See later sections for further discussion of Proposition 8 changes, and Appendix III for ballot arguments.

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.

In summary, Proposition 13 provides that the value of real property is now predicated on its 1975 full cash value, increased by a maximum two percent per year inflationary adjustment since 1975. That 1975 value of a property may be increased if the value on the 1975-76 tax bill did not accurately reflect "1975-76 full cash value." This value remains the basis for assessment until such time as the property undergoes new construction, is purchased or otherwise changes ownership after the 1975 lien date, at which time such property is reappraised at its unrestricted, fair market value as of the date of the transaction or construction.

#### Initial Response: Events of 1978

Proposition 13 took effect July 1, 1978. In the three weeks between that date and the June 6th election, the Legislature enacted Senate Bills 154 (Chapter 292, Statutes of 1978), 2212 (Chapter 332), and 1571 (Chapter 353), which combined to provide implementing legislation for these new constitutional guidelines governing property assessment.<sup>2</sup> The principal thrust of this legislation was to define maximum 1975 base year values, and to define "change in ownership." However, most of the provisions were effective for one fiscal year only, 1978-79, in order to force a thorough reevaluation of the law in the 1979 legislative session, with respect to future year assessments.

The Board of Equalization, which has the responsibility for advising county assessors in legal questions involving property taxation, adopted a series of rules (#460-471) which took effect on July 3, 1978, hard on the heels of the new legislation. The Board rules addressed more broadly the issues raised by Proposition 13, including a rule defining "newly constructed property" (Rule 463), which was not encompassed in the recently-enacted statutes. The Board also ruled that personal property, and state assessed (utility) properties were NOT covered by the Section 2(a) assessment restriction of Proposition 13 which reads "full cash value means the county assessor's valuation of real property" (emphasis added).

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2. See Summary of Legislation Implementing Proposition 13 for Fiscal Year 1978-79; Assembly Revenue and Taxation Committee and others; October 2, 1978; Assembly Publication #703 (available for \$5.40 from Assembly Publications Office, Box 90, State Capitol, Sacramento, CA 95814 or phone (916) 445-4874).

When the Legislature reconvened after the July recess, two more months remained of the 1978 session, and an effort was made to enact one final substantive implementation bill, SB 2223. This measure failed to gain final passage in the waning hours of the session, however, leaving the final word on Proposition 13 in 1978 to the courts, and to the electorate.

On October 25, 1978, the California Supreme Court in the case of Amador Valley Joint Union High School District et.al. v. State Board of Equalization (22 Cal 3d 208; 1978) rendered the decision that Proposition 13 was constitutional. One of the major points argued was that the reassessment upon change in ownership would create disparities in tax burdens for identical homes receiving the same level of government services, depending on the date the property was acquired by the current owner. This "equal protection" argument was rejected, although the Court left the door open to further review, stating that their opinion did "not preclude subsequent challenges to the specific meaning or validity of those enactments." (See case excerpts in Appendix VIII.)

There are a number of other thorny legal issues currently being litigated; these are enumerated in Appendix VIII, along with the major cases and their status as of October 1979.

On November 7, 1978, the voters approved the first, and so far only revision to Article XIII A of the Constitution. Proposition 8 permitted property restored after certain disasters to escape reassessment as "new construction", and more significantly, allowed for declines in value resulting from "substantial damage, destruction, or other factors causing a decline in value." Proposition 13 as enacted did not appear to recognize the possibility of value declines.

Appendix IV includes the statutes, and Appendix V the Board rules, in effect on October 2, 1978, for the 1978-79 fiscal year ONLY.

### Creating a Permanent Assessment System

When the Legislature returned in January to open the 1979 session, it was confronted with a body of Proposition 13 implementing law set to expire after June 30, 1979. Three major bills were subsequently enacted which establish an ON-GOING property tax assessment system: SB 17 (Chapter 49, Statutes of 1979), AB 1488 (Chapter 242), and AB 1019 (Chapter 1161). Other changes were contained in AB 581 (Chapter 1075) and AB 1489 (Chapter 1188). The basis for most of these revisions was the work and recommendations made by the Task Force on Property Tax Administration (hereinafter "Task Force") a broad-based group of

individuals appointed by Assembly Revenue and Taxation Committee Chairman Willie L. Brown, Jr., to examine needed reforms to existing property tax statutes in the wake of Proposition 13.<sup>3</sup>

In the following pages, the current status of property tax assessment law will be discussed, with statutory or Board of Equalization rule citations given, and comparisons made to the 1978-79 law under SB 154 et al where a significant departure in policy was adopted in the 1979 legislative measures.

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3. See Report of the Task Force on Property Tax Administration; Assembly Revenue and Taxation Committee; January 22, 1979; Assembly Publication #723 (Available for \$7.30 from Assembly Publications Office).

## ANALYSIS OF PROVISIONS BY SUBJECT AREA

### 1975 Base Year Values

This is the value upon which future year assessments of a property (which is not newly constructed or transferred) is based. Controversy exists because Proposition 13 allows the value listed on the 1975-76 tax bill to be adjusted in certain circumstances. The thrust of implementing statutes has been to define these circumstances.

Section 110.1 of the Revenue and Taxation Code (all references hereafter are to this code unless otherwise specified) as enacted by SB 154 provided that "full cash value of real property means the full cash value...as determined pursuant to Section 110 for...the lien date in 1975," and further provided that "(I)f property has not been appraised pursuant to Section 405.5 to its appropriate base year value, full cash value means the reappraised value of such property as of the base year lien date."<sup>4</sup>

Controversy immediately arose as to whether an assessor could increase the 1975-76 tax bill value of a property if that value was previously based on an appraisal for the 1975 lien date, but the assessor, with hindsight, was now able to determine that the value based on that 1975 appraisal was actually too low, and did not represent the true full cash value of the property at that time.<sup>5</sup>

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4. "Appraised refers to a periodic appraisal by the assessor to "substantiate his judgment of its full cash value" (Section 405.5). An appraisal usually includes some physical inspection of the property, and a comparison to comparable properties. All property is "assessed" every year (Section 401.3), but the terms "appraised" and "assessed" are distinct in their meaning.

5. For further information on this issue see:

Assessment Practices; Transcript of Interim Hearing of the Senate Revenue and Taxation Committee; September 27, 1978, Oakland, CA.

Report of the Task Force on Property Tax Administration (supra note 2, at pages 11-20).

Although Board rule 460 followed the statutory language, Board "Assessor's Letters" of July 28 and August 18, 1978, say that assessors should increase values in such instances. This situation remained unresolved during 1978, and wide disparity of practice existed among assessors on establishment of 1975 values for the first post-13 assessment roll of fiscal year 1978-79.<sup>6</sup>

Court Action and SB 17. On January 15, 1979, an Alameda County Superior Court ruled, in one of several cases filed around the state, that Alameda County had no authority to increase the value of any property that had been appraised for the 1975 lien date (Holmdahl v. Alameda County Assessor and State Board of Equalization, No. H-55317-9). The effect of the ruling was limited to that one county.

Coincidentally, the first assessment practice bill to be signed in 1979, on May 1, was SB 17, which was authored by Senator Holmdahl, the successful plaintiff in that Alameda County case. SB 17 sought to clarify the application of 1975 base values statewide, along the lines of the court case.

In the form as unanimously approved by the Senate, SB 17 originally provided that for any property "appraised or reviewed" for the 1975-76 fiscal year, the base year value would be the one appearing on the tax bill; if there was any change in value from 1974-75 to 1975-76, that meant a property had been "appraised or reviewed" for 1975, and thus that became the 1975 base year value. For all other property, a new 1975 base value would be established by using factors actually used in establishing assessed values in 1975 for comparable properties, and the assessor was directed to consider the value of comparable properties actually reappraised in 1975. The bill also required a reduction of 1978 value on any property, to the extent it exceeded the proposed base year value, to be reflected either as a reduction in subsequent tax installments or as a refund.

6. See County Property Tax Assessment Practices: An Analysis of the Post-Proposition 13 Assessment Roll and Base Value Options; by the Legislative Auditor General; April 1979; Joint Legislative Audit Committee Report #p-861.1 and p-861.2 (available from the Office of the Auditor General).

This report reviewed preparation of the 1978-79 assessment rolls generally, and found that out of 47 counties surveyed, 20 revalued all parcels except those reappraised for the 1975-76 tax roll; 15 revalued all properties to full market value as of March 1, 1975, even if they had been previously reappraised for 1975-76 roll; and 12 counties adopted the actual values on the 1975-76 roll as the base year value for developing their 1978-79 tax rolls, with no change at all.



Substantial amendments were made in the Assembly, however. As finally enacted, SB 17 modified 1975 base year values as follows:

- (1) "Full cash value" for the 1978 assessment is the assessor's appraised value in 1975, if property was appraised in that year (Section 110.1(d)). "Reappraised" means a value determined by a periodic appraisal under Section 405.5. A presumption exists that if the 1975-76 value differs from the property's 1974-75 value, a reappraisal took place. However, the assessor may rebut this presumption by showing the change was not due to a periodic reappraisal (Section 110.1(e)).
- (2) If property was not reappraised for 1975, its 1975 base year value is determined based on "those factors and indicia of fair market value actually utilized in appraisals made pursuant to Section 405.5 for the 1975 lien date" (Section 110.1(c), 2d, 3d sentences).
- (3) Assessors have only until June 30, 1980, to revise any 1975 base year values, but such revisions may be placed on the 1980-81 assessment roll being prepared, rather than as corrections to the 1979-80 roll. As subsequently amended by AB 1488, in Los Angeles County only, and upon approval of the Board of Supervisors, the assessor may have until June 30, 1981, to complete this task (Section 110.1(c), 1st sentence).
- (4) Escape assessments are not permitted for prior years based on a subsequent updating of the 1975 base year value (Section 110.1(c), last sentence).<sup>7</sup>

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7. However, escapes MAY be levied in future years with respect to non-1975 base year values, in those instances where the increase is due to undiscovered value under the PRESENT law. Assessors may NOT go back and levy escapes for years prior to 1979-80 based on subsequent law changes which serve to increase or decrease value in 1979-80 (Section 43 of AB 1488, Chapter 242, Statutes 1979). See also October 5, 1979 Board Assessor's letter on this subject in Appendix VII.

- (5) Any reductions in 1975 base year value resulting from SB 17 are made retroactive to the 1978-79 fiscal year by requiring either credits on the 1979-80 tax bill in the amount of the previous year's over-payment, or refunds on or before June 30, 1980 (Section 2 of SB 17, Chapter 49, Statutes 1979).<sup>8</sup>

#### Inflation Adjustment

The value of each property which is not newly constructed or purchased, or which does not change ownership or decline in value (see following section) is increased automatically by two percent over the previous year, or by the percentage change in CPI if that is less than two percent. This is known as the factored base year value (Section 110.1(b)). This provision was first enacted by SB 154, and has not been changed by subsequent legislation.

Although the language of Proposition 13 is that "the full cash value base may reflect from year to year the inflationary rate not to exceed two percent" (emphasis added), both statute and Board Rule 460(b)(5) state that the value shall be increased two percent annually. The reason for the mandatory application is two-fold: to ensure statewide uniformity of practice, and to carry out the apparent intent of the initiative's authors in limiting increases to two percent, not zero.<sup>9</sup>

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8. In the Assembly Revenue and Taxation Committee SB 17 was originally approved only after the retroactivity was deleted. Local governments urged this amendment because of an estimated \$75 million revenue loss. Subsequently, however, the Committee reheard SB 17 and reversed its earlier position, and voted unanimously to reinsert the retroactivity and include an appropriation for \$75 million to cover local revenue losses. The Ways and Means Committee then struck the appropriation, and SB 17 went on to enactment with the retroactivity provision but no local government reimbursement. The Auditor-General's report, released subsequent to this action, and based on data from individual counties, indicated a revenue loss attributable to retroactivity of closer to \$20-25 million.

9. Proponent's ballot argument in favor of Proposition 13 states in part that the measure "limits yearly market value tax raises to two percent per year."

## Declines in Value

Although the ballot arguments in favor of Proposition 8 indicate that the primary concern of the author was to prevent adverse treatment of persons rebuilding their homes and businesses after a disaster, the principal impact of the proposition has been to allow taxable values of any property to decline below the factored base values established under Proposition 13.

As enacted by AB 1488, Section 51 spells out the two ways an assessor may arrive at the taxable value of a given property. In order to ensure that no property be valued at a level higher than BEFORE Proposition 13 was enacted, the value of real property is the lesser of:

- (1) its factored base year value (Section 51(a)), or
- (2) its full cash value under Section 110, taking into account reductions due to damage, depreciation, or other factors causing a decline in value (Section 51(b)).

A decline in value does not necessarily result in a new base value.<sup>10</sup> Under Section 51 and Board Rule 461(d), if the true full cash value of a property declines one year and then in subsequent years appreciates in value, the assessment must be increased to that higher level of full cash value. However, if the full cash value EXCEEDS the factored base year value, then the actual assessment made cannot exceed that factored base year value.

This provision means that assessors must maintain two sets of values for such declining value properties: full cash and factored base. It also means that a property which declined in value one year may be increased in value the following year by MORE than two percent, up to the ceiling of factored base year value.<sup>11</sup> Table IV shows an example of the variety of allowable changes in values for a sample property over a period of several years.

In determining the extent of a potential decline in value, the assessor must look to the net change in value of the appraisal unit which is commonly bought and sold in the market place, or which is normally valued separately (Section 51(c), 2d paragraph). This means that land and improvements are ordinarily treated as a unit,<sup>12</sup> and that a taxpayer cannot claim a net decline in full cash value terms of an improvement due to depreciation, without also including any appreciation in the

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10. A temporary base value may result in certain cases involving damaged property (Section 51(c)). See page 34.

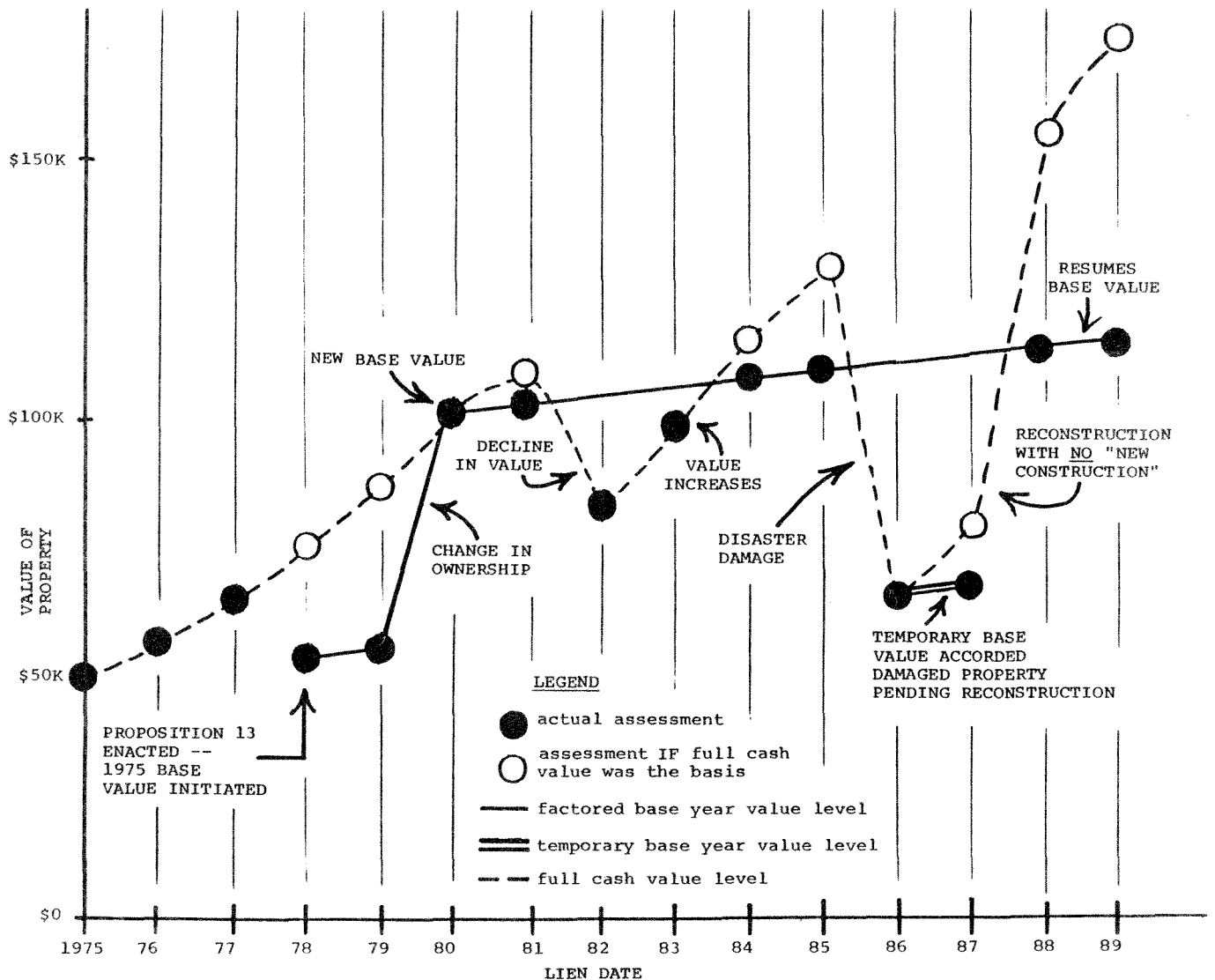
11. See Task Force report (supra note 2 at pages 29-31).

12. For valuation following a disaster land is a separate unit.

TABLE IV  
 VALUE CHANGES FOR A SAMPLE PROPERTY  
 OVER A PERIOD OF YEARS

Explanation of Table

The table below illustrates the changes in value for a hypothetical property from 1975 to 1977 (pre-Proposition 13) and from 1978 to 1989 under the present legislation implementing Prop. 13. Shown are the effects of a change in ownership, a decline in value, and value changes due to a disaster and subsequent reconstruction. The table charts the relative levels of full cash versus factored base year values, while the narrative on the facing page explains the hypothetical details to these various changes in value.



## Narrative

NOTE: The following values and percentages are purely illustrative, to show the workings of the assessment system given different types of value increases and declines.

1. Pre-Prop. 13 values of the hypothetical property were increasing at 15% per year (1975: \$50,000; 1976: \$57,500; 1977: \$66,125).
2. Proposition 13 takes effect for the 1978 lien date, rolling back the property's value to \$53,060--1975 value compounded at 2% annually. (Full cash value would have been \$76,044, at 15% increase over the previous year's full cash value.)
3. Value on 1979 lien date is 2% higher than previous year (\$54,122), whereas full cash value would have been \$87,450 at a 15% increase.
4. In 1979 the property is sold, and as a change in ownership a new base value is established for 1980, which is equal to the full cash value, at \$100,568 (15% increase).
5. The 1981 value is 2% higher, at \$102,529. Full cash value begins slipping, and increases by only 5%, because of a downturn in neighborhood economic conditions, to \$105,596.
6. In 1982 the full cash value falls by 20% to \$84,477. Since the full cash value is now lower than the factored base value, which continues to increase by 2% annually, this lower value is used. This does not establish a new base value.
7. By 1983 conditions in the neighborhood are improving, and a 10% increase in full cash value is registered. This value of \$92,923 is still less than the factored base value of \$106,724, so full cash value remains the basis for the assessment. Note that the increase of 10% is greater than the 2% allowable increase in base year values. Full cash value is not so constrained, however the assessment cannot exceed the factored base value.
8. In 1984 full cash value increases by 20% to \$111,508 which exceeds the factored base value of \$108,858, so the latter is the assessment.
9. The factored base year continues to increase by 2% to \$117,035 (chart is not quite to scale here).
10. Disaster strikes in 1986. A fire reduces the full cash value of the property (\$122,659) by 50%, so the factored base value is also halved, from \$113,256 to \$56,628.
11. No reconstruction is undertaken in 1987, so a temporary base value is established, and the value increases only 2% over the prior year even though the full cash value of the property increased by a greater percentage to \$60,000.
12. By lien date 1988 the property is reconstructed, and is comparable to the pre-disaster condition. Thus, no "new construction" is deemed to exist, and the prior base year value is reapplied, with accumulated inflation factors, which is \$117,831. If full cash value were used, the property would be assessed at \$150,000, because it increased by 250% on the open market.
13. The example ends in 1989 with the property once again on the factored base value track with a 2% increase over the prior year, while the full cash value continues to soar.

value of the land. If the building depreciation is offset by the increase in land value, then no reduction in assessment occurs. Fixtures, however, are normally appraised separately, thus owners may claim a decline based on depreciation of the fixture without regard to the value of the surrounding land or improvements.

With all the various possibilities for establishing a decline in value, the assessor's workload will be much greater than if Proposition 8 had not passed. The assessor will endeavor to identify all such declining value properties, but the law states that the assessor need not annually reappraise all parcels (Section 51(c), 3d paragraph), in recognition of the administrative demands involved. Thus, property owners who feel their property has declined in value should bring this to the attention of the assessor themselves, if necessary.

### Special Types of Property

California's Constitution contains assessment provisions for special types of property, which were in effect prior to, and were not changed by, Proposition 13. They require use value assessments for non-profit golf courses and permit use value assessments for enforceably restricted timberland, agricultural and open space land and historical property. Special assessment provisions are provided for property owned by a government outside its boundaries.

In accordance with the Task Force's recommendation, the Legislature in AB 1488 provided that property assessed pursuant to Article XIII, Sections 8, 3(j), 10 and 11 continue to be assessed pursuant to those sections, and not pursuant to Article XIII A. (See also BOE Rules 465, 470 and 471.)

The Task Force believed that specific constitutional authorization was controlling over general constitutional principles, even though the general provisions were more recently enacted. Further, certain of this property--agricultural and open space land--is assessed pursuant to contractual obligations as authorized by Section 8, and these contractual arrangements cannot be abrogated. This special valuation procedure is intended to carry out the will of the electorate when they enacted these specific provisions in the Constitution.

Timberland. For land zoned as timberland preserve, this provision requires valuation to be made under the same procedures originally established in Chapter 176 of 1976 (AB 1258, the Forest Taxation Reform Act per Section 434.5). For 1978-79, timberland was valued using a modified 1975 base year value under AB 2955, but these one-year provisions were repealed in favor the original approach.

Williamson Act. The Board rule in effect for 1978-79 provided for a fixed 1975 base value at the property's 1975 restrictive value. AB 1488 supercedes this rule and requires annual use value based on income, as was the practice prior to Proposition 13.

However, open space and agricultural lands covered by Williamson Act contracts are subject to optional treatment under AB 581, enacted subsequent to AB 1488. Such property will be assessed at a level no higher than its unrestricted 1975 (or subsequent) base year value, factored by the two percent inflationary adjustments, unless either the county or the owner expressly prohibits such an approach (Section 423(e)). If the use value formula under the Williamson Act produces a lower value, then such value will be used instead. The approach used in a given year will vary depending upon whether farm income is high or low. The "option" is available only with the consent of the counties, since they are a party to the contracts. The intent of this change is to allow an additional pass-on of Proposition 13 savings to such landowners, as an incentive to keep them within the open space contract. Otherwise, they could obtain the 1975 factored value anyway by cancelling or nonrenewing their contract; the anomalous result in those cases would be a lower value after leaving the Williamson Act, rather than a higher one.

Trees and Vines. The base year for trees and vines will be the first year in which they are taxable pursuant to Article XIII--four and three years, respectively--rather than the year in which they are planted (Section 53).

Oil and Gas. Although without a special constitutional provision for valuation, oil and gas properties do qualify as a special problem. The Task Force debated at some length whether to recommend separate statutory treatment of these properties; it opted not to. No statute has yet been enacted, although Board Rule 468 does address the valuation of these properties.

Some have maintained that drilling, pumping and the discovery of proven reserves constitutes "new construction", and/or that production constitutes "change in ownership". They argue in favor of annual valuation at full cash value, while oil and gas owners argue for retention of a 1975 base year until ownership of the mineral rights changes hands.

Under the Board rule, however, 1975 base values are applied to "then-proven" reserves, while current values apply only to new reserves. Such new reserves may result either from actual drilling OR from price increases which make it economic to produce more expensive and inaccessible types of deposits. This latter point may become important as either deregulation of oil or Federal subsidies encourage development of deeper deposits, "heavy" oil, oil shale-type deposits, etc.

## Change in Ownership and Purchase

The most complex area of law implementing Proposition 13 is the attempt to define "change in ownership". There are literally hundreds of ways in which to transfer property, aside from a simple exchange for consideration. But by using the terms "purchase" and "change of ownership" separately, the framers of Proposition 13 apparently sought to encompass a wider range of property transfers than simply those outright sales.

Upon a "change in ownership" or "purchase", the property is reappraised to its true, fair market value as of the date of the transfer (Section 50). Change of ownership may include all types of property transfer, whether voluntary, involuntary or by operation of law, by grant, devise, inheritance, trust, contract of sale, addition or deletion of an owner or any other means, except as expressly excluded.

Of the three value "benchmarks" under Proposition 13--1975 base values, change in ownership, and new construction--change in ownership is by far the most critical. The 1975 base, while recently the topic of intense public debate, is only a temporary benchmark. New construction is a permanent reappraisal trigger (like change in ownership), but only triggers reappraisal of the portion of any property which is "newly constructed", while as a general rule a reappraisal of the entire property occurs upon change in ownership. Thus, after 1978 the lion's share of the growth in the property tax base will be triggered by, and dependent on, change in ownership.

This statewide growth may come disproportionately from residential property, due to more rapid turnover rates and higher growth rates in the "true" current market values of homes, as compared to business properties. The Task Force recognized this point, and while making no specific recommendation, did urge the Legislature to study carefully the idea of "periodic reappraisal of commercial and industrial properties...on roughly the same assessment cycle "as residential property."<sup>13</sup>

In SB 154, the 1978-79 definition of "change in ownership" was relatively brief (see Appendix VI). As the myriad of complexities involving property transfer rapidly become apparent, the resulting text of the 1979 law grew and grew, ultimately to nearly six times the size of the SB 154 law of 1978. The following sections detail the various major component "parts" of the change in ownership statutes and rules.

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13. See Task Force report (supra note 2 at pages 57-58).



### Basic Definition

A "change in ownership" is defined in Section 60 as "a present transfer of an interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of fee interest." A "purchase" is a change of ownership for consideration (Section 67).

The rationale for this basic definition is important. As conceived by the Task Force whose work led to the adoption of AB 1488, the general definition would be controlling in all cases where a more specific provision to the contrary was absent. The general definition provides a consistent, three-part test for determining change in ownership:<sup>14</sup>

- (1) It transfers a present interest in real property. This element is necessary to protect a variety of contingent or inchoate transfer from unintended change in ownership treatment, including future interests, revocable transfers (including wills) and transfers with retained life estates.
- (2) It transfers the beneficial use of the property. Beneficial use is necessary to protect custodianships, guardianships, trusteeships, security interests, and other fiduciary relationships from unintended change in ownership treatment. For example, a father buys land for his minor son, taking title as custodian for the son. There IS a change in ownership when the father buys the property, however, when the son reaches majority and gets the property outright there is no change in ownership. This is because the father never had the beneficial use of the property. The son was the real owner from the outset and when he reached majority there was no transfer of the beneficial use.
- (3) The property rights transferred are substantially equivalent in value to the fee interest. This test is necessary to determine WHO is the primary owner of the property at any given time. Often two or more people have interests in a single parcel of real property, such as with leases, where the landlord owns the reversion, and the tenant, the leasehold interest. Suppose the landlord sells the property subject to the lease and the lessee assigns the lease. Which sale or transfer is the change in ownership? The purpose of this third element, therefore, is to avoid such unwarranted complexity by identifying the primary owner, so that only a transfer by him will be a change in ownership and when it occurs

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14. See Task Force Report (supra note 2 at pages 38-40)

the WHOLE property will be reappraised. If a lease is of short term (the landlord owned the main economic value), the landlord's sale, subject to the lease, would count. If, on the other hand, the lease was a long term lease (the lessee's interest was the main economic package), the lease assignment would count. In either case the entire fee value of the leased premises would be reappraised.

### Interspousal Transfers

All transfers among spouses are excluded from change in ownership, including transfers taking effect upon the death of a spouse, or transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation. This provision overrules any other provisions described hereafter regarding definition of a change in ownership (Section 63).

Without this provision certain types of property transfers, e.g., community property or joint tenancy interests would be exempt, while other property, such as separate property left by will, would be subject to change in ownership. This was the result of the exemption provided originally under SB 154. Since the blanket interspousal exclusion of AB 1488 is not consistent with the basic definition contained therein, it is set forth in a separate section.

### Joint Tenancy

Joint tenancies create undivided interests in property, with each co-tenant owning a percentage (fractional) interest (for property tax assessment purposes only). Under present law the creation, termination, or transfer of any fractional interest is a change of ownership (Section 61(d)), but results in a reappraisal only of the percentage interest transferred (Section 65(a)). However, there are three major exceptions to these general rules, which are noted below.

Reversal of Policy. The 1979 legislation of AB 1488 and AB 1019 represents a complete turnaround in the treatment of joint tenancies and undivided interests, from that of SB 154. For 1978-79, the creation of a joint tenancy was the trigger for reappraisal, while any termination of a joint tenancy interest was not a change in ownership. This approach had the benefit of administrative simplicity and it avoided the need to reassess upon the death of a joint tenant.

However, the Task Force found the SB 154 treatment to be exactly backward. It reasoned that joint tenancy confers some rights in both joint tenants while they are both alive, but the most meaningful of ownership rights--complete fee title to the whole property--would occur on the termination of the joint tenancy, such as the death of one of the joint tenants. That

right, like rights under a will or intervivos trust, is contingent upon survivorship. Thus, the first exclusion to the general rule under present law is for any creation or transfer of a joint tenancy interest where the transferor remains as one of the joint tenants after the transaction (Section 62(f)). The termination of a joint tenancy interest, however, is generally deemed a change in ownership, which is the reverse of the earlier policy.

Reappraisal of fractional interests imposes added administrative burdens on assessors, but to reappraise the ENTIRE property whenever a change involving a single co-owner occurred would be inequitable to the other remaining co-owners. However, this is exactly what SB 154 did. While far easier to administer, this policy was also reversed in AB 1488, although Section 65(b) does provide that undivided interests of less than five percent will NOT be reappraised (Section 65(b)). For purposes of this test, transfers during the year to "affiliated transferees", i.e., family members other than the transferor's spouse, business associates, or legal entities under common ownership, are cumulated (BOE Rule 462(b) and statute).

Operation of Present Law. In determining whether a joint tenancy transaction constitutes a change in ownership, and if so the extent to which the property would be reappraised, AB 1488 introduced and AB 1019 refined the concept of an "original transferor".

An "original transferor" is one or more persons who hold joint tenancy interests in property immediately after a complete turnover of the previous original owners occurs. For joint tenancies created prior to March 1, 1975, it is rebuttably presumed that all owners as of that date are original transferors. The spouse of an original transferor is also considered to be an original transferor, even if he/she was added as an owner after the original acquisition. After the point in time at which the original ownership is established, no subsequent joint tenants who are added to the current ownership (except the spouses just mentioned) are treated as "original transferors" (Section 65(a)).

In applying the general rules noted above, there are two other major exceptions where a joint tenancy transaction is NOT a change in ownership:

- (1) Any termination of an "original transferor's interest", IF that interest is transferrred (a) by operation of law, i.e., upon death, and (b) in whole or in part to the remaining original transferor(s) (Section 65(a)(1)). However, if the transfer is intervivos, or wholly to a non-original transferor, or there are no remaining original transferors, then the ENTIRE portion of the property held by that original transferor PRIOR to the creation of the joint tenancy will be reappraised.

- (2) Any termination of the joint tenancy interest of OTHER than an original transferor, IF the interest is transferred to an original transferor or else to all remaining joint tenants (Section 65(a)(2)). If that interest goes in whole or in part to a NEW party beyond the current joint tenants (including original transferor(s)), then a change in ownership DOES occur, and a reappraisal will be made of the proportional interest transferred, in accordance with the general rule.

Examples. This rather complex treatment is designed to protect family joint tenancy interests, and those of original owners. The following examples show the operation of these provisions:

- (1) A brother and sister have owned a home as joint tenants since 1952. The brother dies in 1980, and by operation of law his interest vests in the sister. Result: no reappraisal, since the sister received the entire interest, as a co-original transferor. In 1985, the sister dies. Result: 100% reappraisal.
- (2) Husband A purchases a home in 1968, and becomes the original transferor in 1976 by virtue of Wife B being added as a joint tenant. She also becomes an original transferor, as A's spouse. Son C is added as a joint tenant in 1980. Result: no reappraisal because original transferors remain as joint tenants after the transfer. Son C subsequently transfers his interest wholly to his parents. Result: no reappraisal because interest of non-original transferor vested in original transferors.
- (3) Original sole owner A (since 1976) creates a joint tenancy with B in 1979, resulting in A and B as joint tenants (note that B is NOT an original transferor). A then dies, leaving B as sole owner. Result: 100% reappraisal since the original transferor (A alone) held the entire portion of property prior to creation of the joint tenancy.
- (4) Two friends, X and Y, purchase a small business as joint tenants in 1978. In 1980 they become co-original transferors by adding Y's spouse and associates R and S as co-joint tenants. Result: no reappraisal.

Barring any other intervivos transfer of interest, no reappraisal will occur until the survivor of X, Y, and Y's spouse dies, at which time there would be a 100% reappraisal.

However, if X transfers intervivos to any party (current joint tenant or new person), a 50% reappraisal will occur (X held one-half of original interest). Likewise with Y unless Y transfers to Y's spouse, in which case the interspousal exemption applies. If Y's spouse transfers to anyone other than Y, a 20% reappraisal would occur (assumes one-fifth equal shares prior to transfer).

If R or S were to transfer to the other alone, or to a new party T, then a similar 20% reappraisal would occur, due to the one-fifth interest of each. But if they transfer only to X, Y or Y's spouse, or to all remaining joint tenants, no reappraisal occurs.

It should be noted that the original transferor is not allowed the option of transferring intervivos to either the other original transferors (if any) or to all remaining joint tenants--as non-original transferors are allowed to do--without incurring reappraisal; escape from reappraisal is allowed to an original transferor only upon the transfer of his/her interest at death, i.e., "by operation of law".

The above examples, and the years used therein, are for illustrative purposes ONLY, and are certainly not inclusive of the myriad sets of circumstances involving joint tenancy transfers.

#### Tenancies-in-Common

Tenancies-in-common also create undivided interests<sup>15</sup> in property, and the creation, transfer or termination of a tenancy in common is generally a change in ownership (Section 61(e) and 65(b)). As noted above under "Joint Tenancy", only the fractional interest transferred is reappraised (Section 65(a)). The five percent test (Section 65(b)) is also applicable. However, any transfer between co-owners which results in a change in the method of holding title to the real property without changing the proportional interests of the co-owners, such as a partition of a tenancy-in-common, is NOT reappraised (Section 62(a)).

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15. These interests need not necessarily be equal.

## Trusts

Similar to the approach taken in SB 154 for joint tenancies, the creation of trusts in 1978-79 was a change in ownership. Under AB 1488, the creation AND termination of trusts still generally constitute a change in ownership; however, the key rests in whether the trust is revocable or irrevocable, and who the beneficiaries are. For example, a change of ownership of trust property occurs (a) when a revocable trust becomes irrevocable, unless the transferor or the transferor's spouse remains or becomes the present beneficiary of the trust, and (b) when neither the transferor nor the transferor's spouse is a present beneficiary upon creation of an irrevocable trust (Section 61(h)). Exceptions to the general rule are indicated below.

Transfers of real property to a trust are NOT a change of ownership if:

- (1) The transferor or the transferor's spouse is the present beneficiary of the trust (Section 62(d) (1) , 63).
- (2) The trust is revocable (Section 62(d) (2)).
- (3) The transferor retains the reversion and the beneficial interest(s) created does not exceed 12 years in duration (also known as Clifford Trusts; Section 62(d) last clause).
- (4) The exemption afforded "interspousal transfers" applies (Section 63 - See explanation above).
- (5) The transfer is from one trust to another and meets the requirements of (1), (2), (3), or (4).

Termination of a trust or portion thereof is NOT a change of ownership if:

- (1) The trust is irrevocable and for 12 years or less duration, and on termination the property reverts to the trustor or the trustor's spouse (Section 62(d) last clause).
- (2) The exemption afforded interspousal transfers applies (Section 63).
- (3) Termination results from the transferor's exercise of the power of revocation (Board Rule 462(h)).

Thus, given the typical estate planning trust where the surviving spouse receives income for life with reversion to the children, reappraisal does not occur until the death of the spouse.

The major inequity in the area of trusts created under SB 154, which was applicable to the 1978-79 fiscal year only, was the interpretation by the Board of Equalization that creation of revocable ("living" or "inter vivos") trusts constituted a change of ownership under that legislation. In fact, revocable living trusts are merely a substitute for a will. The gifts over to persons other than the trustor are contingent; the trust can be revoked or those beneficiaries may predecease the trustor. A number of suits have been filed taking issue with this ruling, but no resolution of the matter has been made to date with respect to those 1978-79 assessments.

As provided by AB 1488, if the trust is revocable it is excluded from change of ownership because the rights conferred are contingent. If the trustor is the sole beneficiary during his lifetime, his retained interest is considered to be "substantially equivalent in value" to the fee interest in any real property covered by the trust. He is therefore the true owner and the change in ownership does NOT occur until the property actually passes to the remaindermen on the trustor's death.

#### Leases

A long-term lease is a means of conveying the substantial equivalent of a fee interest in property. The Legislature felt leases had to be termed a change in ownership, but the issue was how long a lease term was required to constitute "value equivalence".

In SB 154, the term was set at 10 years. This brought protests that so low a threshold was arbitrary and unadministrable. In considering this issue the Task Force opted for 35 years, based on the practice of financial institutions which will lend on the security of a lease for 35 years or longer.

Although the implementing legislation for some time carried a 50, rather than 35 year test, the number 35 was eventually amended into AB 1488, and this change over 1978-79 was the ONLY part of AB 1488 made retroactive to 1978-79 (see later section on "Effective Date"). SB 154 originally set a threshold of only 10 years applicable to 1978-79. Due to an inability of assessors to administer this low a duration of lease, and the lack of compliance with the 10 year limit in 1978-79, the new 35 year level was made retroactive (Section 42 of AB 1488; Chapter 242, 1979).

Given the 35 year term, and the "one-owner" approach previously cited in the "Basic Definition" section, the following transactions under Section 61(c) DO constitute a change of ownership:

- (1) Creation, assignment or sublease of a leasehold interest (including renewal options) with an original term, or remaining term, of 35 years or more;

- (2) Termination of a leasehold interest with an ORIGINAL term of 35 years or more;
- (3) Transfer of a lessor interest in property subject to a leasehold with a REMAINING term of LESS than 35 years.

The entire premises subject to the leasehold interest are reappraised, but not any portion of the property not subject to the lease.

In line with the above principle, the transfer of a lessor's interest subject to a leasehold with a REMAINING term of 35 years or MORE does NOT trigger reappraisal.

This general treatment is modified by AB 1019 in one respect, with regard to residential property (Section 61(c) 3d paragraph, 62(g)). For 1979-80 and thereafter, there is a conclusive presumption that all "homes eligible for the homeowners' exemption" which are on leased land have a renewal option of at least 35 years, whether or not such an option is in fact provided for in the contract. (A property may be of a type eligible for the exemption even if it is not currently receiving the exemption.)

The purpose of this provision is to protect those homeowners who own the dwelling but lease the land, where the lessor sells his interest in the land. Prior to passage of AB 1019, in cases where a homeowner's remaining lease term was less than 35 years, reassessment would occur without this provision. The immediate problem was on Irvine Company land in Orange County. With many leases of less than 35 years remaining, the recent acquisition of the Irvine Company constituted a change of ownership of the lessor, which would have initiated reappraisal for perhaps thousands of such tenant-homeowners. Given the unlikely prospect of evicting a homeowner from land where he actually OWNS the dwelling on that land, it was felt that an "inherent" renewal option existed, and that such a conclusive presumption was warranted.

In the area of mineral rights, any creation, renewal, sublease, assignment or other transfer of the right to produce or extract oil, gas or other minerals for so long as they can be produced or extracted in paying quantities is a change in ownership (Section 61(a)). Only the property subject to the mineral rights is reappraised, not the balance of the property, with respect to such a lease.

### Possessory Interests

The creation, assignment or sublease of possessory interests in tax exempt property are changes in ownership regardless of their term (Section 61(b)). That is not inconsistent with private leases, however. In possessory interest there is only ONE



owner of taxable real property, the lessee, because the lessor's interest is tax exempt. The lessee's interest, therefore, is always "substantially equivalent" to the fee interest in the taxable real property.

### Legal Entities

With two exceptions, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, are NOT changes in ownership (Section 64(a)). The are:

- (1) transfer of stock in a housing cooperative conveying right of possession and occupancy, which is generally treated as a change in ownership (see below for further explanation), and
- (2) obtaining majority control of a corporation through purchase or transfer of corporate stock, exclusive of shares owned by directors, by another corporation or a partnership or any other person. The property owned by the corporation which is taken over is deemed to have changed ownership (Section 64(c)).

Transfers between different legal entities DOES constitute a change in ownership, however. For example, a transfer of property between two non-affiliated corporations, a partnership and a corporation, or a partnership and an individual are all changes in ownership. This was termed by the Task Force as the "separate entity theory", in which the general laws of the state endowing corporations, partnerships, joint ventures, associations and so forth with an identity separate from its owners is respected. To tax transactions among entities and individuals was considered to be quite important in order to head off two-step transactions of property from one person to another via a corporation, (i.e., A incorporates his home or business, then sells 100% of stock in corporation to B, who may then dissolve the corporation and own the home or business), which would otherwise escape reappraisal.

The majority-takeover-of-corporate-stock provision deviates from this general theory, and represents an "ultimate control" rationale. This provision was enacted out of a concern that, given the lower turnover rate of corporate property, mergers or other transfer of majority controlling ownership should result in a reappraisal of the corporation's property-- an effort to maintain some parity with the increasing relative tax burden of residential property statewide, due to the more rapid turnover of homes. It was also a trade-off for exempting transfers among 100% wholly-owned corporations (see following section).

Affiliated Corporations. Transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization by merger or consolidation shall not be a change of ownership if: (a) The voting stock of the corporation making the transfer and the voting stock of the transferee corporation are each owned 100 percent by a corporation related by voting stock ownership to a common parent; and (b) The common parent corporation owns directly 100 percent of the voting stock of at least one corporation in the chain or chains of related corporations (Section 64(b)). The purpose of this section is to exclude those transfers made among subsidiaries directly or indirectly owned by the same parent corporation, and which, therefore, are essentially under the same ownership and control before the transfer as after. (See also BOE Rule 462(i)(2)).

Partnerships. Real property which is contributed to a partnership or which is acquired by the partnership IS a change in ownership of such real property, regardless of whether the title to the property is held in the name of the partnership or in the name of one or more individual partners, with or without reference to the partnership. The transfer of any interest in real property by a partnership to a partner or any other person or entity also constitutes a change in ownership. However, the purchase or transfer of an ownership interest(s) in a partnership(s), e.g., the addition or deletion of partners, is NOT a change in ownership in partnership property (BOE Rule 462(i)).

Housing Cooperatives. As previously mentioned, the general rule regarding transfer of stock in a housing cooperative is that it constitutes a change of ownership (Section 61(h)). However, excluded are transfers involving stock in cooperatives financed under various federal or state mortgage assistance programs IF the stock is transferred either to the housing cooperative itself, or to a person or family which qualifies for purchase of the cooperative stock by reason of limited income, as per any applicable federal or state assistance programs. Any transfer to a person or family NOT of limited income, whether directly from a prior tenant-stockholder or via the cooperative itself, DOES constitute a change of ownership (Section 62(i)). The purpose of this exclusion is to keep carrying charges (i.e., taxes) low to facilitate stock purchase and ownership by low income persons and families at the lowest possible levels. As amended by AB 1019 it is ensured that this benefit go only to low income co-op owners, and not to low income homeowners of standard single-family residences or condominiums.

Whenever a change of ownership does occur with respect to a cooperative AND transfer NOT subject to the exemption, only the unit or lot transferred and any share in the common area is reappraised (Section 65(c)). This same principle extends to units or lots in community apartment projects, planned unit developments, shopping centers, industrial parks, or other properties with common areas (such as condominiums).

Any increase in property taxes resulting from such a reappraisal must be applied by the owner of the property (e.g., the housing cooperative corporation) solely to the unit the transfer of which triggered the reappraisal. Thus, the increase will be borne by the new tenant only, and not by the remaining tenants who had nothing to do with the transfer. Otherwise, the cooperative, which receives a single tax bill, might prorate the increase equally to all tenants (Section 65(e) 2d paragraph).

#### Other Exclusions from "Change in Ownership"

The following transfers do NOT constitute a change in ownership:

- (1) The transfer of bare legal title, e.g.,
  - (a) any transfer to an existing assessee for the purpose of perfecting title to the property, or
  - (b) any transfer resulting in the creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession or profits (Section 62(b) and (c)(1)).
- (2) Any transfer caused by the substitution of a trustee pursuant to the terms of a security or trust instrument (Section 62(c)(2)).
- (3) Any transfer by an instrument whose terms reserve to the transferor, the transferor's spouse, or both of them, an estate for years or an estate for life. Transfers with a retained life estate are not ownership changes until the life tenant dies. The life tenant has the dominant or primary interest under the "value equivalence" element of the general change in ownership definition, and there is no transfer of the present interest in the property until the life tenant dies and the property vests in the remainder. At that time, the provisions of trusts and interspousal transfers permitting, a change in ownership shall be deemed to have occurred (Section 62(e)).
- (4) A change in the name of an owner of property not involving a change in ownership (BOE Rule 462, 2d paragraph).
- (5) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution (Section 62(h)).

- (6) Any contribution of real property to an employee benefit plan, or the creation, vesting, transfer, distribution or termination of a participant's or beneficiary's interest in such a plan, as described in the Employee Retirement Income Security Act of 1974 (Section 66).
- (7) Any transfer resulting from tax delinquency by the sale to or deed to the state and redemption by the former assessee. However, a sale by the state, whether to the original owner or to a new owner, IS a change in ownership requiring reappraisal as of the date of the sale (BOE Rule 462(g)).
- (8) Transfer by judicial action upon foreclosure is not a change in ownership until (a) after the period of redemption has passed and property has not been redeemed, or (b) upon redemption when title vests in the original debtor's successor in interest (BOE Rule 462(f)).

#### Newly Constructed Property

In 1978-79 the definition of new construction was left to Board of Equalization regulations (BOE Rule 463), In AB 1488, acting on Task Force recommendations, a statutory definition was enacted for 1979-80 and thereafter. However, perhaps more so than in any other assessment area, what constitutes new construction is very largely determined by the Board rule, which as amended in response to AB 1488 expands the existing statutory language significantly. There are also more unresolved controversies regarding new construction than any other part of the new law, which are indicated in the following discussion.

Basic Definition. "New Construction" is defined by statute to mean "(a)ny addition to real property, whether land or improvements (including fixtures). . . and (a)ny alteration of land or of any improvement (including fixtures) . . . which constitutes a major rehabilitation thereof or which<sup>16</sup> converts the property to a different use." (Section 70(a)).

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16. This basic definition differs from the original Board rule which defined "newly constructed" as "any addition or improvement to land, whether classified as land or improvement for purposes of enrollment, and any addition of new improvements or alterations of existing improvements if said alteration results in a conversion to another use or an

(continued)

"Major rehabilitation" is then defined as "(a)ny rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture" (Section 70(b)). (Note that this definition does not specifically address land, although land is linked with the major rehabilitation test via "alterations" constituting new construction.)

The second test, "converting property to a different use", is not further defined in statute.<sup>17</sup>

How Much Is New Construction? This means there are two different standards for new construction: additions, and alterations. With respect to the latter, there are two alternative tests: the alteration must either convert the property to a different use, or result in major rehabilitation.

There is no "threshold" test for additions comparable to the "major rehabilitation" test for alterations. It should be noted that the Board rule inserts the word "substantial" before both "addition" and "alteration". The word "substantial" is not used in the statute, but the intent of the Task Force was clearly to exclude from new construction minor additions or alterations.<sup>18</sup>

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extension of the economic life of the improvement" (emphasis added). It was felt that "economic life" was too all-encompassing a test, and that "major rehabilitation" set forth a higher standard, which would exclude maintenance, repair and remodeling.

17. An attempt was made to define "different use", and its impact on valuation of land as opposed to improvements, in AB 1019, in response to the way in which the Board of Equalization sought to implement AB 1488 in its amended Rule 463. These provisions were amended out of the final version of the bill, however, the Assembly Revenue and Taxation Committee plans interim hearings on the entire issue of new construction in November 1979, in order to resolve the remaining controversies in this area.

18. At page 60 of its report, the Task Force argued that "normal maintenance and repair should not occasion a new valuation", and stated that under the Task Force's recommended language, "if a homeowner adds a new roof....this would not add value to the property".

It is not clear, however, whether all such minor changes will be excluded under the Board rule, even with the word "substantial" inserted. Although at 463(b)(4) the Board excludes from alterations "normal maintenance and repair.... interior or exterior painting, replacement of roof coverings or the addition of aluminum siding...", there is no exclusionary list for additions. And 463(b)(1) is quite specific that "changing an existing improvement so as to add horizontally or vertically to its square footage or to incorporate an additional fixture" constitutes a "substantial addition".

This language may result in minor kitchen or bathroom remodeling being counted as new construction, because it "converts the improvement or any portion thereof to the substantial equivalent of a new structure or portion thereof or changes the way in which the portion of the structure that had been altered is used". (emphases added, 463(b)(3)). This latter point could result in reappraisal of a utility closet being converted into a bathroom, because of the change in use. In either case, such a restrictive interpretation runs counter to Task Force intent and the discussions in legislative committees, and may be an area for future statutory revisions.

Basis For Value. Only that portion of the property which is newly constructed is reappraised (Section 71).

The use of the word "portion" was an attempt to clarify that only the property which is newly constructed shall be reappraised. For example, if a room is added to a house, the Task Force wanted to be sure that only the value of the addition was reappraised and not the value of the structure as a whole. "Portion" was intended to refer to the entire portion of property--land and improvements--which is newly constructed. It was not meant to imply any segregation of land and improvements, the significance of which is discussed below in light of the current Board rules as it affects value.

Fair market value, not cost, remains the basis for valuation of new construction. The taxable value is determined by adding the new construction value to the value of the pre-existing property, reduced to account for taxable value of property removed during construction (Section 71, Rule 463(a)).

The question arises then, how much value attributable to that "portion" of property which is newly constructed may allowably be added to the assessment roll?

In Rule 463(a) the Board states that "full value of new construction is only that value resulting from the new construction and does not include value increases not associated with the new

construction", and at (b)(2) states that "only the value of the alteration shall be added to the base year value of the pre-existing land or improvements". This effectively means that land will escape value increases under many, if not most types of new construction.

However, the statute says that "at (date of completion) the entire portion of property which is newly constructed shall be reappraised at its full value" (Section 71). Arguably it does not limit the value to that added by the new construction, but rather identifies the portion of property which is to receive its proportionate amount of full value of the property as a whole. The Board rule appears to create a separate value basis for "new construction" versus "change in ownership", although the statutes (Section 71, and Sections 51 and 65, respectively) both call for full value or full cash value (which are one and the same under Sections 110 and 110.5).

The apparent end result is that, given two identical homes, one of which is newly constructed and the other which changes ownership, on the same date, the home which changes ownership will have a higher valuation, because all factors affecting value are taken into account, whereas the newly constructed home will exclude value attributable to inflationary land values (see example in Rule 463(b)(2)).

Date of Completion. The value of completed new construction is appraised at the date of completion. Rule 463(e) defines this time as the date the property or portion thereof is available for use, subject to various considerations. New construction in progress on the lien date will be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which was newly constructed will be reappraised at its full value.

The complete reappraisal upon completion of multi-year construction was added in Committee to ensure that treatment of major commercial and industrial developments should be equated with small construction projects which are completed within one year, and to ensure that the bias previously mentioned against residential property regarding turnover rates and change in ownership was not further exacerbated by an additional shift in tax burden due to new construction.

Without a final appraisal of the entire newly constructed portion of a property, assessors would be almost forced to use the cost approach, to value without ever having the opportunity to apply the income approach under which a base year value could be established that bears a reasonable relationship to the market value of the completed development. Projects completed within one year would thus be discriminated against,

as their final value would be proportionately greater than that given to a multi-year project, where, in effect, the sum of the parts would be less than the whole. This was of special concern since homes are usually constructed within a year, while commercial-ventures may take several years before final completion.

### Disaster Relief

"New construction" as defined in the previous section does not include timely reconstruction of property, damaged or destroyed by a disaster, to a level equivalent to the original property. Only that physical portion of a newly rebuilt property which exceeds the substantial equivalent of the original structure (pre-damage) in size, use and quality will be reappraised (Section 70(c) and BOE Rule 463 (f)). This provision is derived from Propostion 8 of November 1978, which provided special treatment for property affected by Governor-declared disasters. The statute, however, treats reconstruction following any disaster, damage or misfortune in the same manner, to prevent inequities. Prop. 8 is directed at any change in value, while the statute talks of physical comparability. This is because values may increase rapidly due to inflation, and the same, identical house, built today, would likely have a fair market value far in excess of the original structure. Thus, value was felt to be an inappropriate measure of comparability.

Current roll values may be reduced for real or personal property. Previous law in this area (formerly Sections 155.1, 155.13 and 155.14) were amended to provide that a property's base year value is reduced by the same proportion that its fair market value is reduced, to ensure relief. Without a proportional reduction, many damaged properties might still have a higher full cash value in that condition than their base value, and thus no reduction could be allowed. If damage occurs between March 1 and July 1, the relief will extend to the following year (or else taxpayer would only get one to two months relief) and upon restoration, taxes will be prorated accordingly (Section 170).

A related provision ties into this reduction of value on the current year's roll. In future years, AB 1488 provides for a temporary reduced base year value for property which has been damaged by disaster or misfortune, or removed voluntarily by the taxpayer. Section 51(c) provides for the remaining full cash value of the damaged improvement to be added to the base value of the land, and if this sum is less than the base year value of both land and improvement together, then such will become the new base year value of the property ONLY until such property is "restored, repaired, or reconstructed or other provisions of law require establishment of a new base year" (Section 51(c)).



The purpose of this provision is to allow values to stabilize at a 2 percent increase per year (rather than allowing any increase up to the prior factored base year level) as long as the property remains in its damaged state. Reconstruction or subsequent additions will trigger a new base year. The threshold is designed to limit this treatment to only those properties with a substantial reduction in value.

### Assessment Appeals

Taxpayers will have the opportunity to appeal their 1975 base year value until the appeals deadline for the 1980 lien date. If the appeal is successful, the change in the base year value will be prospective (Section 80(a)(2)).

The present law and procedure for assessment appeals will continue for change in ownership and new construction base year values. Each year's assessment continues to be treated as a new assessment. For the current year, therefore, the taxpayer may challenge such a base year valuation within the normal assessment appeal period, even if the value base had been established in a prior year. However, a four year statute of limitations is placed on appeals for the year in which new base values are established. For example, if a taxpayer wishes to appeal as too high a base value established in 1980, the last year in which to make such an appeal would be 1984; if successful, the change would be effective for 1984-85 and thereafter (Section 80(a)(3) and (4), (b), (c), and 81).

If valuations are based on full cash value, then any value established by assessment appeal for 1975 shall be the 1975 base year value (Section 80(a)(1)).

### Taxpayer Reporting

All persons recording a transfer must file a change in ownership statement with the assessor within 45 days or a penalty of \$100 or 10% of current year taxes, whichever is higher, will apply to the taxpayer. The penalty may be waived by the Board of Supervisors. The statement provides the assessor with enough information to determine whether or not a transfer is indeed a "change in ownership" and if so, what consideration was involved. Such statements are generally available from title companies, and may be filed in escrow. This is the procedure that will be followed in the vast majority of all transfers.

All transferees in an unrecorded transfer must also file a statement with the assessor. Failure to do so within 45 days of request by assessor results in the same penalty. This is admittedly a more difficult situation in which to identify the transfer, unless the transferor or transferee report the change. In

order to reach possible transferees, it is envisioned that assessors will send a notice in each year's tax bill, which will constitute a general "request" for all persons affected to file the statement. (See generally Section 90, Article 2.5 (Section 480 et seq), Section 2516 R&TC, Sections 27280 and 27321 Government Code).

Information will also be available via Business Property Statements, and new construction data will be afforded by building permits, which are required to be provided by cities and counties to the assessor (Section 72).

#### Effective Date

The provisions of AB 1488 are "retrospective" in effect,<sup>19</sup> meaning that if the value of any property is reduced by provision of this bill, then such reduction shall be reflected in the 1979-80 fiscal year taxes. For example, any transfers since March 1, 1975, which resulted in reappraisals of property for 1978-79 as a "change of ownership" under SB 154/SB 2212, which would not constitute reappraisals under AB 1488, would be ignored for purposes of the 1979-80 assessment roll and thereafter, and such property would be returned to its factored 1975 base year value. However, there will be neither escape assessments nor refunds made for 1978-79 itself, as assessments made in that year were validly made under the law at that time. (Sec. 41 and 43 of AB 1488; Chapter 242, 1979).

The issue of "retroactivity", that of making refunds to taxpayers assessed at higher levels in 1978-79 than they will be in 1979-80, was a controversial one. The predecessor bill to AB 1488--AB 156--was amended on the Senate floor to make its provisions retroactive, before it was sent to the Governor.

The Task Force had been split on this issue, and had recommended that the bill be made "retrospective" in application as opposed to retroactive, i.e., past reassessments would be recognized, but any reductions in value would be made in 1979-80, leaving the 1978-79 value as is. Local governments and some assessors urged that AB 156 be vetoed due to the projected revenue loss in 1979-80 attributable to granting credits for "excess" taxes paid in the prior year by taxpayers whose assessments were lowered by the provisions of AB 156. This revenue loss was represented as \$75 million.

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19. The one exception, as previously mentioned on pages 25-26, was with respect to leases, and here the change made by AB 1488 was made retroactive to the 1978-79 fiscal year.

The Governor did veto AB 156, and his veto message read as follows:

"I am concerned with the substantial fiscal impact AB 156 will have on State and local government. The Legislature should reconsider this measure to insure that necessary amendments to implement Article XIII A are made without the fiscal consequences presently contained in this bill."

As a result, the contents of AB 156 were incorporated into AB 1488, without the retroactivity, and it was this latter bill which was finally enacted, forming the basis for property tax assessment law for 1979-80 and thereafter.

\* \* \*

APPENDIX I

ARTICLE XIII A

*[Maximum Ad Valorem Tax on Real Property—Apportionment of Tax Revenues]*

SECTION 1. (a) 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. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

*[Exceptions to Limitation]*

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective. *[New section adopted June 6, 1978. Initiative measure.]*

*[Valuation of Real Property—Appraised Value After 1975 Assessment—Property Reconstructed After a Disaster]*

SEC. 2. (a) The full cash value means the county assessor's 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 full cash value may be reassessed to reflect that valuation. For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster.

*[Full Cash Value Reflecting Inflationary Rate]*

(b) 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. *[New section adopted June 6, 1978. Initiative measure. Amended November 7, 1978.]*

*[Changes in State Taxes—Vote Requirement]*

SEC. 3. From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed. *[New section adopted June 6, 1978. Initiative measure.]*

*[Imposition of Special Taxes]*

SEC. 4. Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district. *[New section adopted June 6, 1978. Initiative measure.]*

*[Effective Date of Article]*

SEC. 5. This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article. *[New section adopted June 6, 1978. Initiative measure.]*

*[Severability]*

SEC. 6. If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect. *[New section adopted June 6, 1978. Initiative measure.]*

## Tax Limitation—Initiative Constitutional Amendment

Official Title and Summary Prepared by the Attorney General

**TAX LIMITATION—INITIATIVE CONSTITUTIONAL AMENDMENT.** Limits ad valorem taxes on real property to 1% of value except to pay indebtedness previously approved by voters. Establishes 1975-76 assessed valuation base for property tax purposes. Limits annual increases in value. Provides for reassessment after sale, transfer, or construction. Requires  $\frac{2}{3}$  vote of Legislature to enact any change in state taxes designed to increase revenues. Prohibits imposition by state of new ad valorem, sales, or transaction taxes on real property. Authorizes imposition of special taxes by local government (except on real property) by  $\frac{2}{3}$  vote of qualified electors. Financial impact: Commencing with fiscal year beginning July 1, 1978, would result in annual losses of local government property tax revenues (approximately \$7 billion in 1978-79 fiscal year), reduction in annual state costs (approximately \$600 million in 1978-79 fiscal year), and restriction on future ability of local governments to finance capital construction by sale of general obligation bonds.

## Analysis by Legislative Analyst

## Background:

The following are some basic facts about California property taxes.

1. Under existing law cities, counties, schools and special districts are permitted to levy local property taxes. During the 1977-78 fiscal year these governments will collect about \$10.3 billion in property taxes.

2. The state will give \$1.2 billion to local governments to replace the property taxes that cannot be collected because a portion of a business's inventory and a homeowner's property value is exempt from taxation.

3. Total local property tax revenues (tax collections plus state tax relief payments), therefore, will be about \$11.5 billion during 1977-78.

4. The share of total income that comes from property tax revenues is higher for some types of local governments than it is for others.

- a. Cities receive about 27 percent of their income from property tax revenues,
- b. Counties receive about 40 percent from property tax revenues,
- c. Schools receive about 47 percent from property tax revenues, and
- d. In many special districts the property tax is the only significant source of revenue. For example, fire districts receive about 90 percent of their income from property tax revenues.

5. In addition to property tax revenues, many local governments impose other taxes and receive federal and state funds to pay for the services they provide. However, some of these revenues can only be used for certain purposes such as transportation, education, health or welfare. Therefore such revenues are not available to replace property taxes, except to the extent they eliminate the need to use property tax revenues for such purposes.

6. The total local property tax roll consists of county assessments on real property (land and buildings) and personal property (inventories) and state assessments on public utilities and railroads. Total assessments are updated periodically to reflect changes in value due to inflation, new construction, and a greater volume of personal property.

7. Total local property tax revenues are equivalent to 2.7 percent of the full cash value of all taxable property in California.

## Proposal:

This initiative would: (1) place a limit on the amount of property taxes that could be collected by local governments, (2) restrict the growth in the assessed value of property subject to taxation, (3) require a two-thirds vote of the Legislature to increase state tax revenues, and (4) authorize local governments to impose certain nonproperty taxes if two-thirds of the voters give their approval in a local election.

In several instances the exact meaning of language used in this measure is not clear. Where this occurs we have based our analysis on an opinion of the Legislative Counsel regarding the probable court interpretation of such language.

The following is a summary of the main provisions of this initiative:

1. *Property tax limit.* Beginning with the 1978-79 fiscal year, this measure would limit the amount of property taxes that could be collected from an owner of county assessed *real* property to 1 percent of the property's full cash value. This measure does not mention county assessed personal property (such as business inventories), or state assessed property (such as public utilities), but the Legislative Counsel advises us that the 1 percent limit would apply to *all* types of taxable property.

This measure does not permit local voters to raise the

1 percent limit; that would require a new constitutional amendment. The limit could be exceeded only to repay bonded debt approved by the voters *before* July 1, 1978. The limit could not be exceeded to repay bonded debt approved by the voters on or *after* July 1, 1978.

Property taxes to repay existing bonded debt correspond to about 1/4 of 1 percent of the full cash value of taxable property in California.

The limit on property taxes plus the restrictions on assessed values noted below, would substantially reduce local property tax revenues.

**2. Distribution of remaining property tax revenues.** The reduced property tax revenues which could be raised under the 1 percent limit would be collected by the counties and then distributed "according to law to the districts within the counties".

At present there is no state law which would provide for the distribution of these revenues. Therefore we are unable to determine how the substantial reductions in property tax revenues would be distributed among cities, counties, schools and special districts.

Also, this measure refers only to the distribution of property tax revenues to "districts within the counties". It does not say whether cities and counties (which technically are not "districts") could share in these revenues. However, the Legislative Counsel advises us that unless the ballot arguments by the proponents of this measure, which are included in this pamphlet, make it clear that counties and cities are *not* to receive property taxes, they could continue to receive some portion of these revenues.

**3. Restrictions on the growth in assessed values.** Initially this measure would roll back the

current assessed values of real property to the values shown on the 1975-76 assessment roll. However county assessors could adjust the values shown on the 1975-76 assessment roll if these values were lower than the estimated market value as of March 1, 1975. The adjusted values could then be increased by no more than 2 percent per year as long as the same taxpayer continued to own the property. For property which is sold or newly constructed after March 1, 1975, the assessed value would be set at the appraised (or market) value at the time of sale or construction. As a result, two identical properties with the same market value could have different assessed values for tax purposes if one of them has been sold since March 1, 1975.

**4. Increases in state taxes.** Currently state taxes can be increased by a majority vote of both houses of the Legislature and approval by the Governor (that is, if the Governor signs the measure increasing taxes). This initiative would require a two-thirds vote by the Legislature to increase state taxes and would prohibit the Legislature from enacting any new taxes based on the value or sale of real property.

**5. Alternative local taxes.** This measure would authorize cities, counties, special districts and school districts to impose unspecified "special" taxes only if they receive approval by two-thirds of the voters. Such taxes could not be based on the value or sale of real property.

The Legislative Counsel advises us that provisions in the existing Constitution would prohibit general law cities, counties, school districts and special districts from imposing new "special taxes" without specific approval by the Legislature. Such restrictions limit the

*- Continued on page 60*

## Text of Proposed Law

This initiative measure proposes to add a new Article XIII A to the Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED ADDITION OF ARTICLE XIII A

#### ARTICLE XIII A

Section 1. (a) *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. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.*

(b) *The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective.*

Section 2. (a) *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.*

(b) *The fair market value base may reflect from year to year the inflationary rate not to exceed two percent (2%) for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction.*

Section 3. *From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.*

Section 4. *Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district.*

Section 5. *This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article.*

Section 6. *If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect.*

## ANALYSIS OF PROPOSITION 13—

*Continued from page 57*

ability of these local governments, even with local voter approval, to replace property tax losses resulting from the adoption of this initiative.

### Fiscal Effect:

This measure would have the following direct impact on the state and local governments:

1. Local governments would lose about \$7 billion in property tax revenues during the 1978-79 fiscal year. This is because the measure would reduce local property tax revenues (estimated at \$12.4 billion under current law) by 57 percent, statewide. Some counties would lose more, and others would lose less.

2. The ability of local governments to sell general obligation bonds in the future would be severely restricted. These bonds are used to finance the construction of new schools, local government buildings, and a variety of other facilities such as parks and sewage treatment plants.

3. The reduction in local property taxes would reduce state costs for property tax relief payments by about \$600 million in 1978-79.

The full fiscal impact of this initiative would depend on whether or not the \$7 billion in local property tax revenue losses were replaced. Replacement revenues could come from two sources:

1. The initiative permits local governments to raise additional revenues by levying other unspecified taxes. Under existing law, most local governments would have to receive specific approval from the Legislature before levying new taxes. If the initiative is approved, new taxes would also have to be approved by two-thirds of the local voters. Thus the initiative would restrict the ability of local governments to impose new taxes in order to replace the property tax revenue losses.

2. Although there is nothing in the initiative or in current law that would require the state to replace any part of the property tax revenue losses, the state could agree to do so.

*If these property tax revenue losses were substantially replaced, local governments could maintain the existing level of government services and employment.*

Part of these revenue losses could be covered temporarily by using the state surplus. Additional revenues to pay for these services would have to come from higher state or local taxes such as those imposed on personal income, sales and corporations. Depending upon which tax sources were used to replace local property tax losses, there could be a shift in who initially bears the tax burden. This is because most sales and personal income taxes are paid by nonbusiness taxpayers, whereas about 65 percent of property taxes are initially paid by business firms.

*If the \$7 billion in local property tax revenue losses were not substantially replaced, there would be major reductions in services now provided by local governments and in local government employment. We cannot predict which particular local services (such as schools, law enforcement, fire protection, health and welfare) would be affected because we do not know how the remaining property tax revenues would be distributed. Because state law requires local governments to pay for certain local programs at specified levels (for example, unemployment compensation benefits and most local welfare costs), the cuts could not be made in these areas without further action by the Legislature.*

The 2 percent limit on assessment increases would not allow property tax revenues to rise as rapidly as prices are expected to increase. This limit would tend to require additional cutbacks in local government services and employment in future years unless additional replacement revenues were available. By requiring that property be reassessed when sold, this initiative would, over time, cause homeowners to pay an increasing proportion of local property taxes because homes are sold more often than other types of property such as commercial and industrial.

If the state surplus is used to cover part of local revenue losses in 1978-79, it would not be available to maintain the level of government services in subsequent years.

In the long run, a major net reduction in property tax revenues and local spending could have significant economic effects on the level of personal income and employment in California. Such changes, in turn, eventually would produce unknown additional state and local fiscal effects.

## Arguments in Favor of Proposition 13

Limits property tax to 1% of market value, requires two-thirds vote of both houses of the legislature to raise any other taxes, limits yearly market value tax raises to 2% per year, and requires all other tax raises to be approved by the people. Why then the amendment? President Carter said "our tax system is a National disgrace".

Our audit figures show loss to local governments at about \$5 billion, not \$7 billion as claimed by the state finance director.

Assembly leader Paul Priolo said "it's a tough amendment but the state can live with it. It means public officials will have to go to work".

Noted UCLA tax expert Dr. Neil Jacoby writes "This unjust process must be brought to an end". "A 1% limit would still leave property tax revenue *far above* the level required to pay for property-related governmental services, street lighting maintenance, sewers, trash collection and **POLICE AND FIRE PROTECTION**".

According to the State Controller's office, state agencies will still collect more than 33 thousand million tax dollars every year after this amendment passes. We think this is more than enough. *The people will save 7 thousand million dollars every year for themselves.*

This amendment will make rent reductions *probable*. Otherwise *rent raises are certain as property taxes go up*. It will help farmers and keep business in California. It will make home and building improvements possible *and create thousands of new jobs*.

The amendment **DOES NOT** reduce property tax exemptions for senior citizens. **DOES NOT** remove tax exemptions for churches or charities. **DOES NOT** prohibit the use of property tax money for schools.

To make California taxes **FAIR, EQUAL** and **WITHIN THE ABILITY OF THE TAXPAYERS TO PAY**, vote **YES** on Proposition 13.

**HOWARD JARVIS**

*Chairman, United Organizations of Taxpayers*

**PAUL GANN**

*President, Peoples Advocate*

*The Legislature will not act to reduce your property taxes. As a Senator and Legislator for 11 years, I, like you, have been totally frustrated with the Legislature's failure to enact a meaningful property tax relief and reform bill.*

What Ronald Reagan describes as the "spenders coalition" of spendthrift politicians and powerful special interests are spending millions to defeat Proposition 13.

*Your Yes vote will NOT require a reduction of vital services like police or fire, nor any tax increase. Your Yes vote will require a tough Governor take the lead in cutting wasteful, unnecessary government spending 10 to 15%.*

More than 15% of all governmental spending is wasted! Wasted on huge pensions for politicians which sometimes approach \$80,000 per year! Wasted on limousines for elected officials or taxpayer paid junkets. Now we have the opportunity to trade waste for property tax relief!

If we want to permanently cut property taxes about 67%, we must do it ourselves. Join Democratic Senator Robert "Bob" Wilson and me, a Republican Senator, in voting Yes on Proposition 13.

**JOHN V. BRIGGS**

*State Senator, 35th District*

## Rebuttal to Arguments in Favor of Proposition 13

**PROPOSITION 13:**

**GIVES** nearly two-thirds of the tax relief to **BUSINESS, INDUSTRIAL** property owners and apartment house **LANDLORDS**;

**TRANSFERS** your **LOCAL CONTROL** over neighborhood and community program funding to state and federal government bureaucracies;

**PROVIDES** absolutely **NO TAX RELIEF** for **RENTERS**;

**REDUCES** drastically police patrol services and fire protection while **INCREASING** home insurance **COSTS** by 50% to 300%;

**REQUIRES** new taxes to preserve **CRITICAL SERVICES**. Doubling the sales tax, substantially increasing the income tax or increasing the bank and corporation tax by 500% are the potential alternatives;

**SLASHES** current local funding for **PARKS, BEACHES, MUSEUMS, LIBRARIES** and **PARAMEDIC PROGRAMS**;

**PENALIZES** our school **CHILDREN** by **CUTTING** operating school budgets by nearly \$4 billion, further lowering the quality of education;

**PLACES** a disproportionate and unfair tax burden on anyone purchasing a home after July 1, 1978;

**INCREASES** your state and federal **INCOME TAXES** and **HANDS** the IRS nearly \$2 **BILLION** of your tax dollars.

Check the **FACTS**. Talk to your local officials; talk to your schools and talk to your business and labor organizations and demand to know what cutbacks in essential services would occur if Proposition 13 passes.

**JOIN** the **LEAGUE OF WOMEN VOTERS**  
**CALIFORNIA TAXPAYERS ASSOCIATION**  
**LOS ANGELES CHAMBER OF COMMERCE**  
**LEAGUE OF CITIES**  
**COUNTY SUPERVISORS ASSOCIATION**  
**CALIFORNIA RETAILERS ASSOCIATION**

and countless others who are opposed to this **IRRESPONSIBLE MEASURE** which **CUTS \$7 BILLION** from critical services.

**VOTE NO ON 13!**

**HOUSTON I. FLOURNOY**

*Dean, Center for Public Affairs,  
University of Southern California  
Former State Controller*

**TOM BRADLEY**

*Mayor, City of Los Angeles*

**GARY SIRBU**

*State Chairman, California Common Cause*



## Argument Against Proposition 13

Proposition 13 invites economic and governmental chaos in California. It will drastically cut police and fire protection and bankrupt schools unless massive new tax burdens are imposed on California taxpayers. It will take decision-making away from the local level and weaken home rule.

Proposition 13 is a vague, poorly drafted and incomplete proposal which will seriously damage the economic stability of state and local governments. Shocking increases in state and local taxes are virtually inevitable. Many homeowners who expect to benefit will actually suffer a net tax increase.

Homeowners will be in for several unpleasant economic surprises if Proposition 13 is adopted. They will be paying higher federal income taxes, yet at the same time the community they live in will lose its rightful share of federal revenue sharing funds. Homeowners living in identical side-by-side houses will pay vastly different property tax bills.

Millions of renters will be doubly jeopardized. Renters have no guarantee that their landlord's property tax savings will be voluntarily passed through to them. But they can be certain they will be forced to pay the new or additional taxes necessary to keep our local governments out of bankruptcy.

Passage of Proposition 13 will slash \$7 billion from school and local government budgets—an amount nearly equal to one-half of the General Fund budget for the entire State of California. This crippling blow simply cannot be absorbed. For example, it would require a doubling of your present

income tax, or the sales tax to simply replace the lost revenues.

Homeowners and renters are most in need of property tax relief. But Proposition 13 gives two-thirds of the property tax decrease to commercial and industrial property owners.

Proposition 13 will seriously cripple local government services, including police and fire protection. Proposition 13 will force default on many redevelopment and revenue bond issues and prohibit future general obligation bond issues to pay for needed schools, hospitals, and water facilities. Business will not locate or expand in California if the local services necessary for economic development and new jobs are slashed.

This irresponsible initiative is not a solution. Proposition 13 goes too far. It is an invitation to poor community services, less local control and inequitable taxation for all Californians.

Vote "no" on Proposition 13.

**HOUSTON I. FLOURNOY**  
*Dean, Center for Public Affairs,  
 University of Southern California  
 Former State Controller*

**TOM BRADLEY**  
*Mayor, City of Los Angeles*

**GARY SIRBU**  
*State Chairman, California Common Cause*

## Rebuttal to Argument Against Proposition 13

We who own homes, farms, property or rent must not let the political horror stories scare us. We must vote proposition 13 into law June 6, 1978. We must not let the spendthrift politicians continue to tax us into poverty. *Proposition 13 will NOT cut fire protection, police protection, sewers, streets, and lighting or garbage collection. All property related services. It will cut spending about 15%.*

*Proposition 13 will NOT give business a NEW WINDFALL. It does NOT change the tax ratio between residences and business property in effect for 75 years. It will stop business from leaving California and bring new companies to California, creating thousands of new jobs. Proposition 13 will NOT prohibit the use of property taxes to finance schools.*

Proposition 13 will make property taxes FAIR, EQUAL and within the ABILITY to pay for all Californians.

*Proposition 13 will make lower rents certain. It will reduce the monthly impound tax payments on home mortgages.*

As expected, the opposition to proposition 13 is signed by 2 persons long on the taxpayers payroll and one person from a tax free foundation. *Proposition 13 makes sense for California. Means thousands of extra dollars for you and your family each and every year. Restores government of, for and by the people.*

Also for 13: Assemblymen Robert Cline (R), Wm. Dannemeyer (R), Mike Antonovich (R) and Senator Bob Wilson (D).

**VOTE YES ON PROPOSITION 13, YOUR LAST CHANCE FOR PERMANENT TAX RELIEF.**

**HOWARD JARVIS**  
*Chairman, United Organizations of Taxpayers*

**PAUL GANN**  
*President, Peoples Advocate*

**JOHN V. BRIGGS**  
*State Senator, 35th District*

## Official Title and Summary Prepared by the Attorney General

**PROPERTY TAXATION. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Amends Constitution, article XIII A, section 2. Provides that real property reconstructed after a disaster, as declared by the Governor, shall not be considered "newly constructed" for property tax purposes if the fair market value of such property, as reconstructed, is comparable to its fair market value prior to the disaster. Authorizes reduction in full cash value of real property for property tax purposes to reflect substantial damages, destruction or other factors causing a decline in value. Revises existing terms relating to the valuation of real property for property tax purposes. Financial impact: In the absence of a major disaster, the adoption of this proposal would have a minor impact on local property tax revenues statewide. It should have no significant impact on state revenues or costs.

## FINAL VOTE CAST BY LEGISLATURE ON SCA 67 (PROPOSITION 8)

Assembly—Ayes, 69  
Noes, 0

Senate—Ayes, 32  
Noes, 0

## Analysis by Legislative Analyst

**Background:**

Proposition 13 on the June 1978 ballot substantially changed provisions in the California Constitution regarding the valuation of property for property tax purposes. In general, Proposition 13 requires county assessors to use 1975-76 property values as the basis for determining real property assessments in 1978-79 and subsequent years. The 1975-76 values may be increased by an inflation factor of no more than 2 percent per year. However, if the property is "newly constructed", or if ownership of the property changes, the assessment is based *not* on the property's value in 1975-76, but on its value at the time of construction or change in ownership.

**Proposal:**

This proposition would affect the determination of assessed value in three ways:

1. *Allowed adjustments to 1975-76 property values.* Proposition 13 specifies that the county assessors' determination of 1975-76 assessments can now be increased if these values were "not already assessed up to the 1975-76 tax levels". These adjusted values then would constitute the basis for computing future assessments.

This constitutional amendment substitutes the term "full cash value" for "tax levels". The Legislative Counsel advises us that this terminology change is a clarifying amendment to the Constitution, and as such it would not have any direct fiscal effect.

2. *Treatment of "reconstructed" property.* The Legislative Counsel advises us that, as used in Proposition 13, the term "newly constructed" real property covers additions or renovations to real property as well as newly built structures. Thus, property which has not been sold since 1975, but is substantially "reconstructed" following a flood, fire or other disaster would have to be reassessed at its new market value.

This proposal specifies that real property which is reconstructed after a disaster shall not be reassessed at its new market value if (1) it is in a disaster area, as proclaimed by the Governor and (2) its value is comparable to the fair market value of the original property prior to the disaster. This would prevent the assessed value of such property from being increased by more than the 2 percent annual inflation factor.

3. *Property which has declined in value since 1975.* Proposition 13 does not allow the assessor to reduce the assessed value of property which declines in value while it is still owned by the same taxpayer. This proposal would allow the assessor to make such reductions when it has been substantially damaged or its value has been reduced by "other factors" such as economic conditions.

**Fiscal Effect:**

In the absence of a major disaster, the adoption of this proposal would have a minor impact on local property tax revenues statewide. It should have no significant impact on state revenues or costs.

## Argument in Favor of Proposition 8

This past June, the voters of California overwhelmingly passed Proposition 13 (the Jarvis-Gann initiative), thereby significantly reducing a property tax burden that had become increasingly unfair.

The purpose of this measure, Proposition 8, is to further the intent of Proposition 13 by easing the property tax burden of disaster victims who have recently lost their homes or suffered real property damage.

Although Proposition 13 rolled back assessments to 1975-76 values, it overlooked the possibility that a person's property might have been damaged to the extent that it has actually *declined* in value since 1976. Proposition 8 on this ballot would allow assessors to further reduce assessments if such damage has, in fact, occurred.

Moreover, some California families have recently been the victims of large-scale disasters, officially recognized as state emergencies. To cite but one example, more than 200 families saw their homes completely destroyed by fire in Santa Barbara in 1977, and other Californians have suffered similarly from extensive floods, mudslides, and earthquakes.

But when these victims of disasters rebuild their homes or businesses, they come under the provision of Proposition 13 which requires that "new construction" be assessed at current market value, thus causing a major reassessment *upward*. Without Proposition 8, those who cannot afford to rebuild at all presumably will still have to pay the 1975-76 assessed value of the home or

business as though it were still standing.

So, although the "new construction" provision will generally be appropriate, for disaster victims forced to rebuild it is terribly unfair. Proposition 8 simply says that these unfortunate citizens should be allowed the same 1975-76 rollback that the rest of us receive, on condition that the new structure is comparable in value to the one being replaced.

Again, in keeping with the spirit and intent of Proposition 13, Proposition 8 will allow assessors to *reduce* assessments to reflect substantial damage, destruction or other factors which cause a decline in property value. This will insure equal treatment under the law, and will prevent additional tax burdens from falling on those who have suffered major property losses, damage or property depreciation since 1976.

Please join the undersigned individuals who have worked so very hard to provide property tax relief for *all* Californians, and VOTE YES ON PROPOSITION 8.

OMER L. RAINS  
State Senator, 18th District  
Chairman, Senate Majority Caucus

PAUL GANN  
President, Peoples Advocate  
(Co-author of Proposition 13, the Jarvis-Gann Initiative)

PETER BEHR  
State Senator, 2nd District  
Chairman, Committee on Insurance and Financial  
Institutions

No argument against Proposition 8 was submitted

## Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment No. 67 (Statutes of 1978, Resolution Chapter 76) expressly amends an existing section of the Constitution; therefore, existing provisions proposed to be deleted are printed in ~~strikeout~~ type and new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

**PROPOSED AMENDMENT TO  
ARTICLE XIII A**

Section 2. (a) The full cash value means the ~~County Assessors~~ county assessor's 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~~ occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 ~~tax levels~~ full cash value may be reassessed to reflect that valuation. For purposes of this section, the term "newly constructed" shall not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster.

(b) The fair market full cash value base may reflect from year to year the inflationary rate not to exceed ~~two~~ 2 percent ~~(2%)~~ 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.

APPENDIX IV

PROPERTY TAX ASSESSMENT STATUTES IN EFFECT FOR  
1978-79 ONLY

110. Except as is otherwise provided in Section 110.1, "full cash value" or "fair market value" means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other and both with knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon those uses and purposes.

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 means the full cash value of property, including possessory interests in real property, as determined pursuant to Section 110 for either:

(1) The lien date in 1975; or

(2) The date the property is purchased, newly constructed, or when a change in ownership has occurred, after the 1975 lien date, which shall be enrolled on the lien date next succeeding the date when real property, including possessory interests in real property, or a portion thereof, is purchased, newly constructed, or when a change of ownership has occurred.

(b) The value determined pursuant to subdivision (a) shall be the "base year value." If property has not been appraised pursuant to Section 405.5 to its appropriate base year value, "full cash value" means the reappraised value of such property as of the base year lien date. Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.6.

(c) For each lien date after the lien date in which the full cash value is determined pursuant to subdivision (a) and (b), the full cash value of real property, including possessory interests in real property, shall reflect the percentage change in cost of living, as defined in Section 2212; provided, that such value shall not reflect an increase in excess of 2 percent of the full cash value of the preceding lien date.

110.5. "Full value" means fair market value, full cash value, or such other value standard as is prescribed by the Constitution or in this code under the authorization of the Constitution.

110.6. The Legislature finds and declares that a change in ownership of real property means all recorded and unrecorded transfers of legal or equitable title, except the transfer of bare legal title, whether by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other change in the method of holding title, whether by voluntary or involuntary transfer or by operation of law. The term shall also include, but is not limited to, the transfer of stock of a corporation vested with legal title which conveys to the transferee the exclusive right to occupancy and possession of the real property, or a portion thereof, and the creation of a leasehold or taxable possessory interest, or the sublease or assignment thereof, for a term in excess of 10 years.

The board shall prescribe rules and regulations to govern assessors when determining when a change in ownership of real property occurs.

"Change of ownership," as used in this section, shall exclude any of the following:

(1) Any transfer to an existing assessee for the purpose of perfecting title to the property;

(2) The creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession, or profits;

(3) Any interspousal transfer to create or terminate a community property interest or joint tenancy interest;

(4) Substitution of a trustee under the terms of a security or trust instrument;

(5) Any termination of a joint tenancy interest; or

(6) Any transfer of a share of stock in a cooperative housing corporation, as defined in Section 17265, coupled with a possessory interest in a cooperative apartment unit thereof; provided however, that proportion of the value of the cooperative housing corporation attributable to the possessory interest shall be included.

The provisions of this section cease to be operative on July 1, 1979, and as of such date are repealed.

**SEC. 35.\*** Any exclusions from the phrase "change in ownership" as defined by Section 110.6 of the Revenue and Taxation Code, whether enacted by this act or by any subsequent statute shall be valid and shall apply retrospectively to any transfer which is covered by such exclusions and which occurred on or after March 1, 1975.

The Legislature finds and declares that the time constraints imposed for implementation of Article XIII A of the California Constitution necessitated the provisions of the preceding paragraph.

**155.2.** For the 1978-79 fiscal year only, the time fixed for the performance of any act by the assessor relating to the preparation of the 1978-79 fiscal year assessment roll shall be not later than August 21, 1978.

**155.3.** Notwithstanding any other provisions of this division, for the 1978-79 fiscal year only, the mandatory duties imposed by Sections 469, 671, and 1610.2 shall be suspended in counties of more than 4,000,000 population, as determined by the January 1, 1978, Department of Finance revised estimate.

**532.3.** Notwithstanding the provisions of Section 532, any property which escaped taxation or was underassessed for the 1975-76 fiscal year may be assessed; provided, such assessment is made on or before June 30, 1980.

**619.** (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll, either:

(1) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

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\* Added by SB 2212

(b) The information given by the assessor to the assessee pursuant to ~~subdivision (a) or (b)~~ *paragraph (1) or (2) of subdivision (a)* shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1608 and the manner in which the assessee may request use of this procedure.

(c) The information shall also include the assessment ratio for the county as provided in Section 401 and the full value of the property.

(d) The information shall be furnished by the assessor to the assessee by regular United States mail directed to him at his latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for such application shall be prescribed by the State Board of Equalization.

(b) In the case of a county of the first class, the application shall be filed between the third Monday in July and September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed between the third Monday in July and September 15. For the 1978-79 fiscal year only, the September 15 deadline shall be extended to September 30.

(c) In the case of a county of the second to ninth class, inclusive, the application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15. For the 1978-79 fiscal year only, the September 15 deadline shall be extended to September 30.

(d) In all other counties, the application shall be filed between July 2 and August 26. An application that is mailed and postmarked August 26 or earlier within such period shall be deemed to have been filed between July 2 and August 26. For the 1978-79 fiscal year only, the August 26 deadline shall be extended to September 30.

(e) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to such written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

(f) This section shall remain in effect only until July 1, 1979, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1979, deletes or extends such date.

4843. For the 1978-79 fiscal year only, notwithstanding any other provisions of this division, the assessor may make corrections to the 1978-79 roll during such fiscal year without a prior hearing by, or the prior approval of, the board of supervisors. If the assessment change results in a reduction of taxes which have been paid, the amount of the overpayment resulting from such reduction of taxes may be refunded to the current assessee whether or not a refund claim has been filed by the person who paid the taxes.



**SEC. 6.\*** Notwithstanding any other provisions of law to the contrary, the following dates established for the performance of duties imposed on local agencies shall be revised, for the 1978-79 fiscal year only, as follows:

(a) The county auditor shall send a statement of property valuations pursuant to Section 51510 of the Government Code on or before August 28, 1978.

(b) The auditor shall send valuations pursuant to Section 305 of the Metropolitan Water District Act on or before August 28, 1978.

(c) The auditor shall send the statement of land values to irrigation districts pursuant to Section 26627 of the Water Code on or before August 28, 1978.

(d) The county auditor shall send a written statement of valuations to each county water district pursuant to Section 31702.2 of the Water Code on or before August 28, 1978.

(e) The Antelope Valley—East Kern Water Agency shall fix and transmit property tax rates pursuant to Section 79 of the Antelope Valley—East Kern Water Agency Law (Chapter 2146, Statutes of 1959) on or before August 28, 1978.

(f) The auditor shall transmit property valuations to the Castaic Lake Water Agency pursuant to Section 47(b) of the Castaic Lake Water Agency Law (Chapter 28, Statutes of the 1962 1st Extraordinary Session) on or before August 28, 1978.

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\* Added by SB 1571

APPENDIX V

BOARD OF EQUALIZATION  
PROPERTY TAX RULES AND REGULATIONS  
IN EFFECT FOR 1978-79 ONLY

- (1) Rules 460-471
- (2) Assessor's Letters: Q & A  
on various assessment issues

BOARD OF EQUALIZATION  
PROPERTY TAX DEPARTMENT

PROPERTY TAX RULES AND REGULATIONS

IN EFFECT FOR 1978-79 ONLY

Chapter 1. State Board of Equalization – Property Tax  
Subchapter 4. Equalization by State Board  
Article 3. Taxable Property of a County, City or Municipal Corporation

Reference: Sections 110, 110.1, 110.5, 110.6, Revenue and Taxation Code.

**Rule No. 460. (Cal. Adm. Code) GENERAL APPLICATION.**

(a) Sections 1 and 2 of Article XIII A of the Constitution provide for a limitation on property taxes and a procedure for establishing the current taxable value of locally assessed real property by reference to a base year full cash value which is then modified annually to reflect the inflation rate not to exceed two percent per year.

(b) The following definitions govern the construction of the terms in the rules pertaining to Sections 1 and 2 of Article XIII A.

(1) **BASE YEAR.** The assessment year 1975-76 serves as the original base year. Thereafter, any assessment year in which real property, or a portion thereof, is purchased, is newly constructed, or changes ownership shall become the base year used in determining the full value for such real property, or a portion thereof.

(2) **FULL CASH VALUE.**

(A) The full cash value of real property means the "full cash value" as defined in Section 110 of the Revenue and Taxation Code, as of:

1. The lien date in 1975, for the base year 1975-76, or
2. The date such real property is purchased, is newly constructed, or changes ownership after the 1975 lien date, the full cash value of which shall be enrolled on the lien date next succeeding the date when such real property, or portion thereof, is purchased, is newly constructed, or changes ownership.

(B) If real property has not been appraised pursuant to Section 405.5 of the Revenue and Taxation Code to its appropriate base year full cash value, then the assessor shall reappraise such property to its full cash value for the appropriate base year lien date. Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.6 of the Revenue and Taxation Code.

(3) **RESTRICTED VALUE.** Restricted value means a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

(4) **FULL VALUE.** Full value (appraised value) means either the full cash value or the restricted value.

(5) **INFLATION RATE.** For each lien date after the lien date in which the base year full value is determined, the full value of real property shall be modified to reflect the percentage change in cost of living, as defined in Section 2212 of the Revenue and Taxation Code; provided that such value shall not reflect an increase in excess of 2 percent of the taxable value of the preceding lien date.

**Rule No. 460. (Cal. Adm. Code) GENERAL APPLICATION. (Continued)**

(6) **TAXABLE VALUE.** Taxable value means the base year full value factored annually by the inflation rate.

(7) **PROPERTY TAX RATE.** The property tax rate is the rate calculated in accordance with the ad valorem tax limitations prescribed by Section 1 of Article XIII A of the Constitution.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

**Rule No. 461. (Cal. Adm. Code) REAL PROPERTY VALUE CHANGES.**

Section 2 of Article XIII A of the California Constitution provides that real property shall be reappraised if purchased, newly constructed (Section 463) or a change in ownership occurs (Section 462) after the original base year. A purchase is any transfer of title or right to the use, occupancy, possession or profit a prendre of real property, or portion thereof, for a consideration, other than a transfer included in the definition of change of ownership or specifically excluded therefrom by Section 462. The creation of a lease in nontaxable publicly owned property and publicly owned property subject to tax under Section 11 of Article XIII of the Constitution, which lease constitutes a possessory interest as the term is defined in Section 21 (b) of this code, is regarded as a purchase regardless of the period of the lease. Such an interest shall be appraised at its full value as of the date of creation.

Unless otherwise provided for in this chapter, real property which was not subject to valuation in any prior base year, such as newly discovered or additional proved oil and gas reserves, shall be appraised at full value on the lien date immediately following discovery.

Except for annual modification by the inflation rate or changes in value resulting from calamity or the removal of property or a portion thereof, the taxable value of real property shall not reflect any actual market value depreciation or appreciation, whether caused by zoning changes or otherwise, after the base assessment year full value has been established.

The taxable value of real property, or portion thereof, physically removed from the site shall be deducted from the property's taxable value, provided that such net taxable value shall not be less than zero.

The taxable value of real property damaged or destroyed by a misfortune or calamity is to be adjusted in accordance with the Revenue and Taxation Code. If the property is restored, the assessor shall on the lien date following restoration enroll it at its former value plus the appropriate inflation adjustment unless it is determined that new construction has occurred, in which case the market value of the portion newly constructed shall be ascertained and combined with the former value as provided in Section 463.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

**Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP.**

There shall be a reappraisal of real property as of the date of the change in ownership of that property. The reappraisal will establish a new base year full value and will be enrolled on the lien date following the change in ownership. Except as otherwise provided in this section, "change in ownership" refers to all transfers of property whether by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other change in the method of holding title, whether by voluntary or involuntary transfer or by operation of law. A change in the name of an owner of property not involving a change in ownership is excluded from the term "transfer" as used in this section.

Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP. (Continued)

(a) A transfer of the full fee title to land and/or improvements by any means is a change in ownership requiring reappraisal of the property transferred. This includes transfers of units in planned developments as defined in Section 11003 and 11003.1 of the Business and Professions Code, units in cooperative housing developments controlled by cooperative housing corporations as defined in Section 17265 of the Revenue and Taxation Code and condominiums as defined in Section 783 of the Civil Code.

The transfer of an undivided interest in property constitutes a change of ownership in the entire property except as provided in (h) (2) and (4) while the transfer of a divided interest results in a change in ownership only in the property or portion thereof transferred.

(b) A transfer of equitable title is a change in ownership.

(c) The creation, sublease or assignment of the right to beneficial use and possession of taxable or nontaxable real property and the transfer of the lessor's interest in any leased property constitutes a change in ownership of real property or not as follows:

(1) The creation, sublease or assignment of a taxable possessory interest or of a lease in real property for a term or the remainder of a term in excess of 10 years is a change in ownership of the interest transferred.

(2) The creation, sublease or assignment of a lease for 10 years or less in taxable property is not a change in ownership

(3) The transfer of a lessor's interest regardless of the term of the lease is a change in ownership.

(a) The transfer of a lessor's interest in property subject to a lease in excess of 10 years is a change in ownership only to the extent of the reversionary interest transferred.

(b) The transfer of a lessor's interest in property subject to a lease for 10 years or less is a change in ownership of the entire property transferred, including the leasehold interest.

(c) The transfer of a lessor's interest in property subject to one or more leases in excess of 10 years and one or more leases of 10 years or less is a change in ownership to the extent of the reversionary interest(s) in the property subject to the lease(s) in excess of 10 years and to the extent of the property transferred, including the leasehold interest(s), in the property subject to the lease(s) of 10 years or less.

Note: The determination of the term of possession for a lease or a taxable possessory interest shall be pursuant to the provisions of Section 23 of this code.

(d) Foreclosure.

(1) Mortgage or deed of trust foreclosed by judicial action is a sufficient change in ownership only:

(A) After the period of redemption has passed and property has not been redeemed, or

(B) Upon redemption when title vests in the original debtor's successor in interest.

(2) Deed of trust foreclosed by trustee's sale shall cause a reappraisal after the sale has taken place.

(e) Tax deed and tax sale. A tax sale to the state will not cause reappraisal, but a sale by the state of tax-deeded property will cause reappraisal. The reappraisal will take place whether the original owner redeems from the state or a new owner purchases from the state.

(f) Inter vivos trust. A change in ownership occurs upon the creation of, and the transfer of real property to, a revocable or irrevocable inter vivos trust. Similarly, the revocation of the trust by the trustor constitutes a change in ownership. A change in ownership does not occur, however, upon the cessation of a precedent interest which entitles the owner of what was a future interest to the immediate possession and enjoyment of such real property.

Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP. (Continued)

(g) Partnership. Real property which is contributed to either a limited or general partnership or which is acquired, by purchase or otherwise, by the partnership is a change in ownership of such real property, regardless of whether the title to the property is held in the name of the partnership or in the name of one or more individual partners, with or without reference to the partnership. Partnership property is owned by the partners as tenants in partnership and any addition or deletion of a partner, therefore, constitutes a change in ownership of the partnership real property.

(h) The following transfers do not constitute a change of ownership:

- (1) The transfer of bare legal title.
- (2) Any interspousal transfer to create or terminate a community property or joint tenancy interest.
- (3) Any transfer caused by the substitution of a trustee pursuant to the terms of a security or trust instrument.
- (4) Any transfer between or among joint tenants whether voluntary, involuntary or by operation of law.
- (5) Any transfer to an existing assessee for the purpose of perfecting title to the property.
- (6) Any transfer resulting in the creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession or profits.
- (7) Any transfer of stock of a corporation vested with legal title which does not convey to the transferee(s) the exclusive right to occupancy and possession of the real property or portion thereof.

(i) Date of change in ownership. For purposes of reappraising real property as of the date of change in ownership of real property, the following dates shall be used:

- (1) Sales. The date all parties' instructions have been met in an escrow or the date the essential elements of a contract of sale have been met.

In the event that the foregoing dates cannot be ascertained, the change in ownership shall be the date of recordation of the deed or similar document evidencing transfer of either legal or equitable title.

- (2) Leases. The date the lessee has the right to possession.
- (3) Inheritance (by will or intestate succession). The date of death of the decedent.
- (4) Inter vivos trusts. The date the trust instrument is executed or revoked by the trustor.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Rule No. 463. (Cal. Adm. Code) NEWLY CONSTRUCTED PROPERTY.

(a) The term "newly constructed" means and includes any addition or improvement to land, whether classified as land or improvement for purposes of enrollment, and any addition of new improvements or alterations of existing improvements if said alteration results in a conversion to another use or an extension of the economic life of the improvement.

Examples of alterations that qualify as "newly constructed" and thereby require current market value appraisal of the alteration are those that result in any increase in the usable square footage of a structure, the renovation of what was formerly residential property to make it usable for commercial purposes and vice versa, the conversion of property from one commercial use to another, and any alteration that increases the usefulness of the structure, such as the addition of a bathroom.

Excluded from alterations that qualify as "newly constructed" is construction or reconstruction performed for the purpose of routine or normal maintenance and repair, e.g., interior or exterior painting, replacement of roof coverings and the addition of aluminum siding. Also excluded are alterations which do not result in an increased usefulness of existing facilities, such as occurs in the modernization of a kitchen.

For purposes of Section 2(a) of Article XIII A of the Constitution, the definitions of land and improvements contained in Sections 121 and 122, respectively, and the examples contained in Section 124, shall apply.

**Rule No. 463. (Cal. Adm. Code) NEWLY CONSTRUCTED PROPERTY. (Continued)**

(b) When real property, or a portion thereof, is newly constructed after the 1975 lien date, the assessor shall ascertain the full value of such "newly constructed property" as of the date of completion. This will establish a new base year full value for only that portion of the real property which is newly constructed. The taxable value of property which is removed during construction shall be deducted from the taxable value of pre-existing property; provided that such net taxable value shall not be less than zero.

New construction in progress on the lien date shall be appraised at its full value on such 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.

For purposes of this section, the date of completion is the date the property or portion thereof is available for use for the purpose intended as indicated by the design of the structure. In determining whether the structure or a portion thereof is available for use, consideration shall be given to the date of the final inspection by the appropriate governmental official, or, in the absence of such inspection, the date the prime contractor fulfilled all of his contract obligations.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

**Rule No. 464. (Cal. Adm. Code) EXEMPTIONS.**

Article XIII A does not repeal any property tax exemptions granted or authorized by the Constitution on or before July 1, 1978. The property tax rate shall apply to the current taxable value less any exemptions applicable to a specific property. Examples of the application of partial exemptions are as follows:

(a) Homeowners' exemption. The property tax rate applies to the current taxable value of property qualifying for the homeowners' exemption less the value of the exemption.

(b) Veterans' exemption. The sum of 25 percent of the taxable value of taxable assets and 100 percent of the current full cash value as defined in Revenue and Taxation Code Section 110 for non-taxable assets will determine the limitation for the veterans' property tax exemption. Article XIII A contains no provision for reconsidering the granting of the exemption prior to 1978. The property tax rate applies to the current taxable value of property qualifying for the veterans' exemption less the value of the exemption.

(c) Disabled veterans' exemption. The property tax rate applies to current taxable value of property qualifying for the disabled veterans' property tax exemption less the value of the exemption.

History: Adopted June 29, 1978, effective July 3, 1978.

**Rule No. 465. (Cal. Adm. Code) NONPROFIT GOLF COURSES.**

When appraising real property used exclusively for nonprofit golf course purposes in accordance with the provisions of Section 10 of Article XIII of the California Constitution, the assessor shall ascertain the value of such property on the basis of such use, plus the full value attributable to any mineral rights, as of the appropriate base year, regardless of the date such property qualified under the constitutional provisions.

History: Adopted June 29, 1978, effective July 3, 1978.

**Rule No. 466. (Cal. Adm. Code) VALUATION AND ENROLLMENT OF TREES AND VINES**

The base year value of fruit and nut trees, vines, bushes, or other perennials when planted in orchard, grove, or vineyard form whether or not enforceably restricted shall be the most recent of the following:

- (a) The full value as of the 1975 lien date.
- (b) The full value as of the date of planting, or
- (c) The full value as of the date of a change in ownership.

The full value of trees and vines exempted by Article XIII, Section 3 (i), of the State Constitution shall not be enrolled until the lien date following the expiration of the exemption.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

**Rule No. 467. (Cal. Adm. Code) TAXABLE POSSESSORY INTERESTS.**

The assessor shall ascertain the full value of all taxable possessory interests as defined in Section 21 of this code and created prior to March 1, 1975, as of that date. Possessory interests newly created subsequent to March 1, 1975, shall be appraised at their full value as of the date of creation.

Possessory interests subleased or assigned for a term in excess of ten years shall be appraised as of the date the sublessee or assignee obtains the right to occupancy or use of the property.

New improvements erected for the purpose of exercising the rights granted by the possessory interest held in land shall be valued as of the date of the completion of construction. When improvements owned by the holder of the possessory interests are in the course of construction for a period that covers more than one lien date, they shall be appraised in accordance with Section 463.

When it appears that the term of the possessory interest, determined in accordance with Section 23, will end at the conclusion of the estimated term, there shall be no reduction of full value as the term draws to an end. The value in this instance remains the taxable value.

History: Adopted June 29, 1978, effective July 3, 1978.  
Amended September 26, 1978, effective October 2, 1978.

**Rule No. 468. (Cal. Adm. Code) OIL AND GAS PRODUCING PROPERTIES.**

Petroleum, natural gas, and other fluid hydrocarbons are natural substances of the earth, and are classified as land. The volume of these hydrocarbons that will be removed from the land consists of the amount that is classified at a given time as "proved reserves." Proved reserves are the volumes of crude oil and natural gas which geological and engineering information indicate, beyond reasonable doubt, to be recoverable in the future from oil and gas reservoirs under existing economic and operating conditions. The development of proved reserves by drilling and completing wells and by installing production systems constitutes an addition to real property and the production of oil and gas constitutes a removal of real property.

(a) The full value of an oil or gas producing property is its base year full value adjusted for depletion of reserves. The value attributable to such depletion shall be determined annually employing the economic data that applied in the base year.

(b) The base year of newly developed reserves shall be the date of completion of the well or the installation of the production system.

History: Adopted June 29, 1978, effective July 3, 1978.

**Rule No. 469. (Cal. Adm. Code) MINES AND QUARRIES.**

Organic and inorganic minerals and rocks are natural substances of the earth, and are classified as land. The volume of minerals or rocks of acceptable quality that may be removed from the land under existing economic and operating conditions are classified as reserves. The creation of reserves by exploration or by development constitutes an addition to real property and the production of the minerals or rocks from a reserve constitutes a removal of real property.

(a) The full value of a mine or quarry is its base year full value adjusted for the depletion of reserves. The value of the depleted reserves shall be determined annually employing the economic data that applied to the establishment of the reserves in the base year.

(b) The base year of new reserves shall be the year in which either development or mining occurs.

History: Adopted June 29, 1978, effective July 3, 1978.  
Amended September 26, 1978, effective October 2, 1978



**Rule No. 470. (Cal. Adm. Code) OPEN-SPACE.**

All open-space lands "enforceably restricted" within the meaning of Sections 421 and 422 of the Revenue and Taxation Code shall have a base year restricted value determined by one of the following methods:

- (a) If enforceably restricted prior to the 1975 lien date with no subsequent change in ownership, the base year full value is the 1975 restricted value.
- (b) If an enforceable restriction is entered into subsequent to the 1975 lien date and no change in ownership has occurred, the base year full value is the value as if restricted in 1975.
- (c) If a change in ownership has occurred subsequent to the 1975 lien date, the base year full value shall be the restricted value redetermined as of the date of the most recent change in ownership, regardless of the effective date of the enforceable restriction.

All base year restricted values shall be modified annually by the inflation rate. Subsequent land improvements such as wells and land leveling, will be valued by capitalizing the income attributable to the land improvements using the capitalization rate prescribed in Section 423 (b) of the Revenue and Taxation Code.

When an open-space contract is cancelled, pursuant to the provisions of Sections 51280 through 51285 of the Government Code, the full cash value of the land shall be the appropriate base year full cash value as modified annually by the inflation rate.

When an open-space contract is not renewed it shall be phased out under the provisions of Section 426 of the Revenue and Taxation Code; "the full cash value of the land" shall be the base year full cash value modified annually by the inflation rate. The value of the land by capitalization of income shall be the base year restricted value modified annually by the inflation rate.

History: Adopted June 29, 1978, effective July 3, 1978.  
Amended September 26, 1978, effective October 2, 1978.

**Rule No. 471. (Cal. Adm. Code) TIMBERLAND.**

Consistent with the intent of the provisions of Section 3 (j) of Article XIII of the California Constitution and the legislative interpretation thereof, the base year value for land which has been zoned as timberland pursuant to Sections 51110 or 51113 of the Government Code shall be ascertained from the 1977 statutory timberland site class value schedule and shall be modified annually by the inflation rate.

If, on or after March 1, 1979, timberland, or a portion thereof, is purchased, or otherwise undergoes a "change in ownership" as that phrase is defined in Section 462, its base year value shall be ascertained from the most recent board-adopted timberland site class value schedule to be adopted by the Board on or before January 1, 1980. Base year values for timberland which changes ownership on or after March 1, 1980, shall be ascertained from the board-adopted timberland site class value schedule in effect as of the date of change in ownership.

Values determined as provided in this section shall be enrolled on the lien date next succeeding the date when the timberland, or a portion thereof, changed ownership. Each year following enactment of a new base year value that value shall be modified by the annual inflation rate.

History: Adopted June 29, 1978, effective July 3, 1978.  
Amended September 26, 1978, effective October 2, 1978.



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)

(916) 445-1517

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KENNETH CORY  
Controller, Sacramento

DOUGLAS D. BELL  
Executive Secretary

No. 78/134

July 28, 1978

TO COUNTY ASSESSORS:

PROPOSITION 13 INFORMATION

Attached for your use are answers to some of the frequently-asked questions regarding Proposition 13 implementation. This correspondence is one in a series of questions-and-answer format letters dealing with assessment practices under Article XIII A.

We invite your comments and additional questions. Please route such inquiries through Alan Flory of our Assessment Standards Division.

Sincerely,

Walter R. Senini  
Chief of Operations  
Property Tax Department

WRS:sk  
Enclosures

A. QUESTIONS & ANSWERS PERTAINING TO NEW LEGISLATION

1. QUESTION: What is the definition of "75-76" base value?

ANSWER: Senate Bill 154 added Section 110.1 to the Revenue and Taxation Code which clearly defines the value level as "full cash value" (not roll value for 75-76) on March 1, 1975.

2. QUESTION: Are all name changes subject to reappraisal?

ANSWER: No. Senate Bill 2212 provides exclusions by revising Section 110.6 of the Revenue and Taxation Code. All six exclusions were discussed in our Letter to Assessors, Number 78/116, July 6, 1978. The most common name changes processed by your office which are not subject to reappraisal are:

(1) Any interspousal transfer to create or terminate a community property interest or joint tenancy interest, i.e., death, divorce, and

(2) Any termination of a joint tenancy interest.

3. QUESTION: Is it a change of ownership when two partners form a corporation with the same partners now as whole owners of the corporation?

ANSWER: Yes. This is a change of ownership and causes a reappraisal.

4. QUESTION: If I appraise a property which sold on March 2, 1976, when do I enroll the value and how much do I factor it for 1978?

ANSWER: The property is appraised as of the date of sale and that value is enrolled on the subsequent roll (March 1, 1977). The value is subject to only one 2 percent factor for the 1978 roll.

5. QUESTION: Can I selectively apply the 2 percent factor within my county?

ANSWER: No. Section 110.1 mandates the statewide application of the inflation factor when the Consumer Price Index equals or exceeds 2 percent in any year. Section 2212 of the Revenue and Taxation Code defines "percentage change in cost of living" as related to the 2 percent factoring.

6. QUESTION: Are all new values sent out for the 1978-79 roll subject to appeal?

ANSWER: No. The application of an inflation factor alone to a prior base year taxable value does not constitute an increase in value for appeal purposes.

7. QUESTION: What legislation enacted subsequent to the passage of Proposition 13 affects the assessor's operation?

ANSWER: Below, in capsulized form, is a list of sections added to or amended in the Revenue and Taxation Code. Earlier Letters to Assessors deal in depth with each piece of legislation.

<u>Bill</u>	<u>Date</u>	<u>Section</u>	<u>General Topic</u>
<u>1</u> /SB 1571	7/4/78	155.2*	Roll deadline extension
<u>1</u> /SB 1571	7/4/78	155.3*	Suspension of certain mandatory duties in Los Angeles County
SB 1571	7/4/78	532.3*	Extension of statute of limitations for 75-76
<u>1</u> /SB 1571	7/4/78	1603**	Extends appeal dates
<u>1</u> /SB 1571	7/4/78	4843*	Facilitates 78-79 roll corrections
<u>1</u> /SB 2212	6/30/78	110.1** <u>2</u> /	Defines 75-76 value level, factoring, and base year
<u>1</u> /SB 2212	6/30/78	110.6**	Exclusions in "change of ownership"
SB 154	6/24/78	110** <u>2</u> /	"Fair market value" definition
SB 154	6/24/78	110.1*	Defines 75-76 value level, factoring, and base year
SB 154	6/24/78	110.5** <u>2</u> /	"Full value" definition
SB 154	6/24/78	110.6*	"Change of ownership" definition

- \* Section added.  
\*\* Section amended.  
1/ Apply to 1978-79 only.  
2/ No substantive change.

B. QUESTIONS & ANSWERS OF A GENERAL NATURE

1. QUESTION: Must I continue to enroll assessed values?  
ANSWER: Yes. Nothing in Proposition 13 changes the 25 percent assessment ratio.
2. QUESTION: How will my exemption program be affected?  
ANSWER: Proposition 13 leaves intact all existing exemptions. Your administration of these programs should be unaltered.
3. QUESTION: How do I handle declining property values because of physical, functional, or economic obsolescence?  
ANSWER: There are no provisions in Article XIII A which allow you to adjust for lower values for these reasons.
4. QUESTION: What about removal of property?  
ANSWER: The assessor can reflect value reductions for the physical removal of property (see Rule 461a).

C. QUESTIONS & ANSWERS PERTAINING TO PERSONALTY

1. QUESTION: Is the appraisal of personal property affected by Proposition 13?  
ANSWER: No. Proposition 13 applies to real property only; therefore, personal property will continue to be appraised annually.
2. QUESTION: Does the 1 percent tax rate limitation apply to non-certificated aircraft?  
ANSWER: Yes.

D. QUESTIONS & ANSWERS ON MACHINERY AND EQUIPMENT

1. QUESTION: For the 1975-76 assessment year, a county's policy was to classify all machinery and equipment as personal property. In preparing the 1978-79 assessment, can he correctly classify the equipment as improvements?

ANSWER: Yes. The assessor should correctly classify the equipment for the 1978 assessment.

2. QUESTION: A company's equipment which was correctly classified as an improvement for the 1975 assessment was abandoned in-place during 1976. The assessor valued the equipment at zero value for 1977. Should the equipment be valued at zero for 1978?

ANSWER: The equipment must be valued at its 1975 value plus the inflationary factor of 6.12 percent for the 1978 assessment. No allowances for obsolescence or other value reductions are allowable unless the property is physically destroyed or removed from the site.

3. QUESTION: A company's equipment which was correctly classified as an improvement for the 1975 assessment was suffering excessive obsolescence on the 1975 lien date. The assessor's 1975 assessment properly provided for the excessive obsolescence. For 1978 the assessor feels the conditions that caused the obsolescence are no longer evident. For the 1978 assessment can the assessor ignor the 1975 obsolescence allowance?

ANSWER: No. Providing the equipment has not changed ownership nor otherwise been modified, the assessor must rely upon the 1975 appraised value in calculating the 1978 assessment.

4. QUESTION: Is the assessment of personal property affected by Article XIIIIA of the State Constitution?

ANSWER: Personal property is not subject to the assessment restrictions or roll-back provisions of Article XIIIIA. Taxable personal property will continue to be appraised annually at its full cash value.

5. QUESTION: As aircraft subject to Part 10 provisions are taxed at the same tax rate limit as other property, will they be placed upon the roll at their full cash value or the assessed value (25 percent of market value)?

ANSWER: Revenue and Taxation Code Section 5391 requires that the tax rate will be levied against the market value of the aircraft. The aircraft's market value will be entered upon the roll and the 1 percent tax rate will be applied thereto.

6. QUESTION: Will the market value or assessed value of other taxable personal property be placed upon the roll?

ANSWER: Article XIII A does not provide for a change in the assessment ratio of other personal property. Taxable personal property will continue to be appraised at full cash value, assessed at the 25 percent ratio, and the tax rate of 4 percent of assessed value will apply.

7. QUESTION: How will vessels subject to the 1 percent assessed value exemption be handled?

ANSWER: Qualified vessels will be treated in this manner:

<u>Item</u>	<u>Amount</u>
Market value	\$100,000
Assessed value @ 1% of market value	1,000
Tax rate @ \$4/\$100 of assessed value	
Tax liability	40

8. QUESTION: Can an assessor who has been classifying as personal property equipment that meets statutory, judiciary, and regulatory guidelines as improvements continue to classify the property as personalty and appraise it at its full cash value annually?

ANSWER: A valid appraisal requires a correct classification. Beginning with 1978, an assessor should classify equipment as either personal property or improvements in accordance with guidelines set forth in Assessors' Handbook Section 571, The Appraisal of Equipment, Inventory, and Supplies, and Property Tax Rules 122, 123, and 124.

9. QUESTION: Does the addition of either the 10 percent or 25 percent penal assessments (under Sections 463 and 504 respectively) go against the intent of Proposition 13 to limit real property assessment increases to 2 percent per year?

ANSWER: No. We believe the 2 percent real property assessment limitation was intended to apply to the assessable property and not to affect the penal provisions of the code.

10. QUESTION: Will corrections of misclassifications of 1975 appraisals trigger reappraisals of the property?

ANSWER: Only if the original appraisals were in error. Corrections of classifications should not otherwise affect the 1975 appraised value.

11. QUESTION: Does Proposition 13 mean an end to our direct billing program?

ANSWER: For those accounts that only have personal property, possibly an enlargement of the direct billing program is warranted. For those accounts having fixtures or other real property items in their direct billing assessment, the county will have to exercise care that the real property portion reflects the strict value limitations provided under Article XIII A.

12. QUESTION: Are fixtures subject to the roll-back provisions and assessment increase limits of 2 percent per year?

ANSWER: Fixtures are subject to the same roll-back provisions and assessment increase limits as other real property.





**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)

(916) 445-4982

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Controller, Sacramento

DOUGLAS D. BELL  
Executive Secretary

August 18, 1978

No. 78/147

TO COUNTY ASSESSORS:

MISCELLANEOUS PROPOSITION 13 TOPICS

Here is another in a series of letters concerning the implementation of Article XIII A (Proposition 13). These questions and answers deal with several miscellaneous topics.

Please refer any inquiries or additional questions to John McCoy of this division, (916) 445-4982.

Sincerely,

A handwritten signature in cursive script that reads "Verne Walton".

Verne Walton, Chief  
Assessment Standards Division

VW:sk  
Enclosures

A. QUESTIONS & ANSWERS PERTAINING TO  
MISCELLANEOUS TOPICS

1. Compatible Uses (TPZ)

QUESTION: Can property be revalued when a use compatible to the growing of timber is developed after the base year?

ANSWER: The base year value cannot be adjusted for the addition or deletion of a use which is compatible to land subject to a TPZ contract.

2. Sale Date

QUESTION: What is the date of sale?

ANSWER: When all parties' instructions have been met in an escrow or when the essential elements of a contract for the sale of property have been met.

3. Unrestricted Farmland

QUESTION: How do you value a well that has replaced an existing well?

ANSWER: Remove the value of the old well from the assessment roll and enroll the value of the new well.

4. Zoning Change After Purchase

QUESTION: A single-family residence on the 1975 roll is resold in January 1977. The new owner obtains a rezoning and constructs a service station on the site which is completed in 1979. How are the land and improvements to be valued?

ANSWER: 1977 - Revalue land and old improvements at time of sale (values based on old zoning).

1979 - Add current value of new improvements; balance of property (land and old improvements) not subject to reappraisal.

5. 1975 Appraisals

QUESTION: Can the assessor revalue a property to a 1975 level if the property was reappraised in 1975?

ANSWER: If the 1975 appraisal did not reflect 1975 values, the property should be reappraised.

QUESTION: Can the assessor reappraise property to the 1975 level if in 1975 the assessment appeals board established value?

ANSWER: Values established by the assessment appeals board cannot be altered by the assessor.

APPENDIX VI

PROPOSITION 13-RELATED PROPERTY TAX ASSESSMENT LAWS  
IN EFFECT FOR 1979-80 AND THEREAFTER

- (1) Legislation Key
- (2) Legislative History of Statutes
- (3) Subject Matter Index
- (4) Text of Laws

LEGISLATION KEY

<u>Bill</u>	<u>Principal Author</u>	<u>Chapter</u>	<u>Year</u>
AB 1258	Warren	176	1976
SB 154	*	292	1978
SB 2212	Gregorio	332	1978
SB 1571	Sieroty	353	1978
AB 2463	Suitt	576	1978
AB 2955	Keene	1109	1978
AB 2241	Ayala	1281	1978
SB 17 ✓	Holmdahl	49	1979
AB 1488 ✓	W. Brown & Hannigan <sup>+</sup>	242	1979
AB 581 ✓	Imbrecht	1075	1979
AB 1019 ✓	Hannigan	1161	1979
SB 1004	Presley	1180	1979
AB 1489 ✓	Hannigan	1188	1979

\* Conference Committee on SB 154: McCarthy, Boatwright, Priolo, Mills, Rodda, Campbell

+ Sponsored by Assembly Revenue and Taxation Committee, Willie L. Brown, Jr., Chairman

LEGISLATIVE HISTORY OF PROPOSITION 13-RELATEDPROPERTY TAX ASSESSMENT STATUTES

<u>Code Section</u>	<u>Enacted By</u>	<u>Amended By</u>	<u>Amended By</u>	<u>Amended By</u>	<u>Amended By</u>
<u>Government Code</u>					
16140		AB 581			
27280		AB 1488			
27321		AB 1488			
<u>Rev &amp; Tax Code</u>					
50	AB 1488				
51	AB 1488				
52	AB 1488				
53	AB 1488				
60	AB 1488				
61	AB 1488	AB 1019			
62	AB 1488	AB 1019			
63	AB 1488				
64	AB 1488	AB 1019			
65	AB 1488	AB 1019			
66	AB 1488				
67	AB 1488				
70	AB 1488				
71	AB 1488				
72	AB 1488				
80	AB 1488				
81	AB 1488				
90	AB 1488				
110		SB 154			
110.1	SB 154	SB 2212	AB 2463	SB 17	AB 1489
110.5	SB 154				
110.6	SB 154	SB 2212*			
155.2	SB 1571	AB 1488**			
155.3	SB 1571*				
170	AB 1488	AB 1019			
402.2		AB 1488			
423		AB 581			
434.5	AB 1258	AB 2955	AB 1488		
480	AB 1488	AB 1019	SB 1004		
481	AB 1488				
482	AB 1488	AB 1019	SB 1004		
483	AB 1488				
484	AB 1488				
485	AB 1488				
532.3	SB 1571				
619		SB 2241			
1367	AB 1488				
1603		SB 1571	AB 1488		
2516	AB 1488				
4843	SB 1571	AB 1488*			
4844	AB 1488	AB 1019**			
<u>Principal</u>					
<u>Uncodified</u>					
<u>Sections</u>					
Sec. 35	SB 2212*				
Sec. 6	SB 1571*				
Sec. 2	SB 17	AB 1489			
Sec. 3	SB 17				
Sec. 4	SB 17				
Sec. 41	AB 1488				
Sec. 42	AB 1488				
Sec. 43	AB 1488				
Sec. 19	AB 1019				

\* Effective for 1978-79 only  
 \*\* Effective for 1979-80 only

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PART 0.5. IMPLEMENTATION OF ARTICLE XIII  
A OF THE CALIFORNIA CONSTITUTION

CHAPTER 1. BASE YEAR VALUES

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.

51. 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, which shall be the percentage change in the cost of living, as defined in Section 2212; provided, that any percentage increase shall not exceed 2 percent of the prior year's value; or

(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, or other factors causing a decline in value; or

(c) If the property was damaged or destroyed by disaster, misfortune, or calamity, or removed by voluntary action by the taxpayer, the sum of (1) the lesser of its base year value of land determined under subdivision (a) or full cash value of land determined pursuant to subdivision (b), plus (2) the lesser of its base year value of improvements determined under subdivision (a) or the full cash value of improvements determined pursuant to subdivision (b), which shall then become the base year value until such property is restored, repaired, or reconstructed or other provisions of law require establishment of a new base year.

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\* Includes only those statutory changes made in the legislation cited on page 70 which is currently in effect. Pre-existing law which may be cited herein is not included: consult a West's Annotated or the Board of Equalization's Property Tax Laws.



For purposes of this section, "real property" means that appraisal unit which persons in the market place commonly buy and sell as a unit, or which are normally valued separately.

Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property.

52. (a) Notwithstanding any other provision of this division, property which is enforceably restricted pursuant to Section 8 of Article XIII of the California Constitution shall be valued for property tax purposes pursuant to Article 1.5 (commencing with Section 421) and Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2.

(b) Notwithstanding any other provision of this division, property restricted to timberland use pursuant to subdivision (j) of Section 3 of Article XIII of the California Constitution shall be valued for property tax purposes pursuant to Article 1.7 (commencing with Section 431) of Chapter 3 of Part 2.

(c) Notwithstanding any other provision of this division, property subject to valuation as a golf course pursuant to Section 10 of Article XIII of the California Constitution shall be valued for property tax purposes in accordance with such section.

(d) Notwithstanding the provisions of this division, property subject to valuation pursuant to Section 11 of Article XIII of the California Constitution shall be valued for property tax purposes in accordance with such section.

53. The initial base year value for fruit and nut trees and grapevines subject to exemption pursuant to subdivision (i) of Section 3 of Article XIII, of the California Constitution shall be the full cash value of such properties as of the lien date of their first taxable year.

## CHAPTER 2. CHANGE IN OWNERSHIP AND PURCHASE

60. A "change in ownership" means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

61. Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals for so long as they can be produced or extracted in paying quantities. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

(b) The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change of ownership.

For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(d) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62 and in Section 63.

(e) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63.

(f) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest which occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

(g) Any interests in real property which vest in persons other than the trustor (or, pursuant to Section 63, his spouse) when a revocable trust becomes irrevocable.

(h) The transfer of stock of a cooperative housing corporation, as defined in Section 17265, vested with legal title to real property which conveys to the transferee the exclusive right to occupancy and possession of such property, or a portion thereof.

(i) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

62. Change in ownership shall not include:

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year

thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(h) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221 (d) (3), 221 (d) (4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

63. Notwithstanding Sections 60, 61, 62, and 65, a change of ownership shall not include any interspousal transfer, including, but not limited to:

(a) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,

(b) Transfers which take effect upon the death of a spouse,

(c) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or

(d) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

64. (a) Except as provided in subdivision (h) of Section 61 and subdivision (c) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity.

(b) Any corporate reorganization, by merger or consolidation, where all of the corporations involved are members of an affiliated group, and which qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and which is accepted as a nontaxable event by similar California statutes or any transfer of real property among members of an affiliated group, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if:

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations; and

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) When a corporation, partnership, other legal entity or any other person obtains control, as defined in Section 25105, in any corporation through the purchase or transfer of corporate stock, exclusive of any shares owned by directors, such purchase or transfer of such stock shall be a change of ownership of property owned by the corporation in which the controlling interest is obtained.

65. Whenever real property is purchased or a change in ownership of real property occurs, the assessor shall reappraise such real property at its full cash value.

(a) Upon the termination of a joint tenancy interest, only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised, except that:

(1) Upon the termination of an original transferor's interest in any joint tenancy interest described in subdivision (f) of Section 62, the entire portion of the property held by the original transferor prior to the creation of the joint tenancy shall be reappraised unless it vests by operation of law, in whole or in part, in the remaining original transferor, in which case there shall be no reappraisal.

(2) Upon the termination of an interest in any joint tenancy interest described in subdivision (f) of Section 62, other than an original transferor's interest, there shall be no reappraisal if the interest is transferred either to an original transferor or else to all remaining joint tenants.

For the purpose of this subdivision, spouses of original transferors shall be considered to be original transferors.

For purposes of this subdivision, for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975, shall be an "original transferor." This presumption is not applicable to joint tenancies created after March 1, 1975.

At such time as the joint tenancy interests of the remaining original transferor of a property are finally transferred or terminated, the person (s), if any, who next hold joint tenancy interests in said property immediately following such final transfer or termination shall become the new original transferor.

(b) Except as provided in subdivision (a), if a 5 percent or more undivided interest in or a portion of real property is purchased or changes ownership, then only the interest or portion transferred shall be reappraised. A purchase or change in ownership of an undivided interest of less than 5 percent shall not be reappraised, provided, however, that transfers to affiliated transferees during any assessment year shall be cumulated for the purpose of determining the percentage transferred.

(c) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised.

Notwithstanding any other provision of law, the increase in property taxes resulting from such reappraisal shall be applied by the owner of such property to the tenant-shareholder, lessee, or occupant of such individual unit or lot only, and shall not be prorated among all other units or lots of such property.

66. Change in ownership shall not include:

(a) The creation, vesting, transfer, distribution or termination of a participant's or beneficiary's interest in an employee benefit plan; or

(b) Any contribution of real property to an employee benefit plan.

As used in this section, the terms "employee benefit plan," "participant" and "beneficiary" shall be defined as they are defined in The Employee Retirement Income Security Act of 1974.

67. "Purchased" or "purchase" means a change in ownership for consideration.

### CHAPTER 3. NEW CONSTRUCTION

70. (a) "Newly constructed" and "new construction" means:

(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and

(2) Any alteration of land or of any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation thereof or which converts the property to a different use.

(b) Any rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture.

(c) Notwithstanding the provisions of subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction" does not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, which is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion which exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1.

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 such 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.

72. A copy of any building permit issued by any city, county, or city and county, shall be transmitted by each such entity to the county assessor as soon as possible after the date of issuance.



#### CHAPTER 4. ASSESSMENT APPEALS

80. (a) An application for reduction in the base year value of an assessment on the current local roll may be filed during the regular filing period for that year as set forth in Section 1603 or Section 1840, subject to the following limitations:

(1) The base year value determined by a local board of equalization or by the State Board of Equalization, originally or on remand by a court, or by a court shall be conclusively presumed to be the base year value for any 1975 assessment which was appealed.

(2) The base year value determined pursuant to paragraph (1) of subdivision (a) of Section 110.1 shall be conclusively presumed to be the base year value unless an equalization application is filed no later than the regular filing period following the 1980 lien date. Once an application is filed, the base year value determined pursuant to that application shall be conclusively presumed to be the base year value for such assessment.

(3) The base year value determined pursuant to paragraph (2) of subdivision (a) of Section 110.1 shall be conclusively presumed to be the base year value, unless an application for equalization is 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.

Once an application is filed, the base year value determined pursuant to that application shall be conclusively presumed to be the base year value for such assessment.

(4) Any reduction in assessment made as the result of an appeal under this section shall apply for the assessment year in which the appeal is taken and prospectively thereafter.

(b) This section does not prohibit the filing of an application for appeal where a new value was placed on the roll pursuant to Section 51.

(c) An application for equalization made pursuant to Section 620 or Section 1605 when determined, shall be conclusively presumed to be the base year value in the same manner as provided herein.

81. Where real property has been assessed using a base value other than the 1975 base value, the applicant in equalization proceedings pursuant to Chapter 1 (commencing with Section 1601) of Part 3 may establish the correct base year value applicable to the current year's assessment, subject to the limitations of Section 80.

#### CHAPTER 5. TAXPAYER REPORTING

90. Assesseees shall report change in ownership information to the assessor as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2.

\* \* \*

(base year values)

110. Except as is otherwise provided in Section 110.1, "full cash value" or "fair market value" means the amount of cash or its equivalent which property would bring if exposed for sale in the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other and both with knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon those uses and purposes.

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:

(1) The 1975 lien date; or,

(2) For property which is purchased, is newly constructed, or changes ownership after the 1975 lien date:

(A) The date on which a purchase or change in ownership occurs; or

(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.

(c) Notwithstanding any provisions of Section 405.5 or 405.6, 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 counties over 4 million in population the board of supervisors may adopt a resolution granting the assessor of such county until June 30, 1981, to determine such values. In determining the new base year value for any such 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. Such 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 such a 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, such 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 such presumption by evidence that, notwithstanding such difference in value, such 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 reflect the percentage change in cost of living, as defined in Section 2212; provided, that such value shall not reflect an increase in excess of 2 percent of the full cash value of the preceding lien date.

110.5. "Full value" means fair market value, full cash value, or such other value standard as is prescribed by the Constitution or in this code under the authorization of the Constitution.

(extension of time: assessor's duties)

155.2. For the 1979-80 fiscal year only, the time fixed for the performance of any act by the assessor relating to the preparation of the 1979-80 fiscal year assessment roll shall be not later than August 1, 1979.

For the 1979-80 year only, in addition to the extension of time permitted by Section 155, the board or its secretary may grant an extension of an additional 30 days for the performance of any act by the assessor, auditor, tax collector, or county board.

(repeal by AB 1488 of former disaster relief laws)

SEC. 6. Section 155.1 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 155.13 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 155.14 of the Revenue and Taxation Code is repealed.

## CHAPTER 2.5. DISASTER RELIEF

170. (a) Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every assessee of any taxable property, or any person liable for the taxes thereon, whose property was damaged or destroyed without his fault, may apply for reassessment of such property as provided herein.

To be eligible for reassessment the damage or destruction to the property must have been caused by any of the following:

(1) A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if such property was damaged or destroyed by the major misfortune or calamity which caused the Governor to proclaim the area or region to be in a state of disaster. As used in this paragraph "damage" includes a diminution in the value of property as a result of restricted access to the property where such restricted access was caused by the major misfortune or calamity.

(2) A misfortune or calamity.

(3) A misfortune or calamity which, with respect to a possessory interest in land owned by the state or federal government has caused the permit or other right to enter upon the land to be suspended or restricted. As used in this paragraph, "misfortune or calamity" includes a drought condition such as existed in this state in 1976 and 1977.

The application for reassessment may be filed within the time specified in the ordinance, or, if no time is specified, within 60 days of such misfortune or calamity, by delivering to the assessor a written application requesting reassessment showing the condition and value, if any, of the property immediately after the damage or destruction, and the dollar amount of the damage. The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

An ordinance may be made applicable to a major misfortune or calamity specified in paragraph (1) or to any misfortune or calamity specified in paragraph (2), or to both, as the board of supervisors determines. An ordinance may not be made applicable to a misfortune or

calamity specified in paragraph (3), unless an ordinance making paragraph (2) applicable is operative in the county. The ordinance may specify a period of time within which the ordinance shall be effective, and, if no period of time is specified, it shall remain in effect until repealed.

(b) Upon receiving a proper application, the assessor shall appraise the property and determine separately the full cash value of land, improvements and personalty immediately before and after the damage or destruction. If 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 five thousand dollars (\$5,000) or more, the assessor shall also separately determine the percentage reductions in value of land, improvements and personalty due to the damage or destruction. The assessor shall reduce the values appearing on the assessment roll by the percentages of damage or destruction computed pursuant to this subdivision, and the taxes due on the property shall be adjusted as provided in subdivision (e); provided, however, that the amount of the reduction shall not exceed the actual loss.

(c) The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

Those reassessed values resulting from reductions in full cash value of amounts, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the local equalization board, as the case may be. The

auditor shall enter the reassessed values on the roll. After being entered on the roll, such reassessed values shall not be subject to review, except by a court of competent jurisdiction.

(d) If no such application is made and the assessor determines that a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under an ordinance adopted under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor. Upon receipt of a properly completed, timely filed application, the property shall be reassessed in the same manner as required in subdivision (b).

(e) The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of the misfortune or calamity, shall be applied to the amount of the reassessment as determined in accordance with this section and the assessee shall be liable for: (1) a prorated portion of the taxes that would have been due on the property for the current fiscal year had the misfortune or calamity not occurred, such proration to be determined on the basis of the number of months in the current fiscal year prior to the misfortune or calamity; plus, (2) a proration of the tax due on the property as reassessed in its damaged or destroyed condition, such proration to be determined on the basis of the number of months in the fiscal year after the damage or destruction, including the month in which the damage was incurred. If the damage or destruction occurred after March 1 and before the beginning of the next fiscal year, the reassessment shall be utilized to determine the tax liability for the next fiscal year provided, however, if the property is fully restored during the next fiscal year, taxes due for that year shall be prorated based on the number of months in the year before and after the completion of restoration.

(f) Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

(g) The assessment of the property, in its damaged condition, as determined by this section, shall be reviewed at the lien date next following the date of the misfortune or calamity and shall be assessed in the same manner as prescribed by law for any other assessable property.

(h) This section applies to all counties, whether operating under a charter or under the general laws of this state.

(i) Any ordinance in effect pursuant to Section 155.1, 155.13, or 155.14 shall remain in effect according to its terms as if such ordinances were adopted pursuant to this section, subject to the limitations of subdivision (b).

(notice of zoning change)

402.2. If during the assessment year the assessor receives the notice required by Section 65863.5 of the Government Code, the assessor shall reassess the property as of the next succeeding lien date, to the extent permitted by law.

(assessment of Williamson Act lands)

423. Except as provided in Section 423.7, when valuing enforceably restricted open-space land, other than land used for the production of timber for commercial purposes, the board for purposes of surveys required by Section 1815 of this code and the county assessor shall not consider sales data on lands, whether or not enforceably restricted, but shall value such lands by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available the income shall be the fair rent which can be imputed to the land being valued based upon rent actually received for the land by the owner and upon typical rentals received in the area for similar land in similar use, where the owner pays the property tax. Any cash rent or its equivalent considered in determining the fair rent of the



land shall be the amount for which comparable lands have been rented, determined by average rents paid to owners as evidenced by typical land leases in the area, giving recognition to the terms and conditions of the leases and the uses permitted within the leases and within the enforceable restrictions imposed.

(2) Where sufficient rental information is not available, the income shall be that which the land being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the land is enforceably restricted. There shall be a rebuttable presumption that "prudent management" does not include use of the land for a recreational use, as defined in subdivision (n) of Section 51201 of the Government Code, unless the land is actually devoted to such use.

(3) Notwithstanding any other provision herein, if the parties to an instrument which enforceably restricts the land stipulate therein an amount which constitutes the minimum annual income per acre to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated.

For the purposes of this section income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, which the land can be expected to yield to an owner-operator annually on the average from any use of the land permitted under the terms by which the land is enforceably restricted including, but not limited to, that from the production of salt and from typical crops grown in the area during a typical rotation period as evidenced by historic cropping patterns and agricultural commodities grown. When the land is planted to fruit-bearing or nut-bearing trees, vines, bushes or perennial plants, the revenue shall not be less than the land would be expected to yield to an owner-operator from other typical crops grown in the area during a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown. Proceeds from the sale of the land being valued shall not be included in the revenue from the land.

Expenditures shall be any outlay or average annual allocation of money or money's worth that has been charged against the revenue received during the period used in computing such revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the land, interest on funds invested in trees and vines valued as land as provided by Section 429, property taxes, corporation income taxes, or corporation franchise taxes based on income. When the income used is from operating the land being valued or from operating comparable land, amounts shall be excluded from the income to provide a fair return on capital investment in operating assets other than the land, to amortize depreciable property, and to fairly compensate the owner-operator for his operating and managing services.

(b) The capitalization rate to be used in valuing land pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and which was the yield rate for long-term United States government bonds, as most recently published by the Federal Reserve Board, rounded to the nearest one-quarter ( $\frac{1}{4}$ ) percent.

(2) A risk component which shall be a percentage determined on the basis of the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject; and

(3) A component for property taxes which shall be a percentage equal to the estimated total tax rate applicable to the land for the assessment year times the assessment ratio. The estimated total tax rate shall be the cumulative rates used to compute the state's reimbursement of local governments for revenues lost on account of homeowners' property tax exemptions in the tax rate area in which the enforceably restricted land is situated.

(4) A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

(c) The value of the land shall be the quotient for the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b).

(d) The ratio prescribed in Section 401 shall be applied to the value of the land determined in subdivision (c) to obtain its assessed value.

(e) Unless a party to an instrument which creates an enforceable restriction expressly prohibits such a valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though such property was not subject to an enforceable restriction in the base year.

The county assessor shall notify annually the parties to an instrument which creates an enforceable restriction that unless either party expressly prohibits such a valuation, the valuation resulting from the capitalization of income method shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though such property was not subject to an enforceable restriction in the base year.

In determining the 1975 base year value under Article XIII A of the California Constitution for any parcel for comparison, the county may charge a contract holder a fee limited to the reasonable costs of such determination not to exceed twenty dollars (\$20) per parcel.

(f) If the parties to an instrument which creates an enforceable restriction expressly so provide therein, the assessor shall assess those improvements which contribute to the income of land in the manner provided herein. As used in this subdivision "improvements which contribute to the income of the land" shall include, but are not limited to, wells, pumps, pipelines, fences, and structures which are necessary or convenient to the use of the land within the enforceable restrictions imposed.

(assessment of timberlands)

434.5. (a) On March 1, 1977, and March 1 of each year thereafter, up to and including March 1, 1979, timberland shall be valued per acre according to the following schedule:

Redwood region		Pine-mixed conifer region	
Site I .....	\$80	Site I .....	\$60
Site II .....	\$60	Site II .....	\$50
Site III .....	\$50	Site III.....	\$40
Site IV .....	\$30	Site IV.....	\$30
Site V (and inoperable) .....	\$20	Site V (and inoperable) .....	\$20

When the assessor, pursuant to Section 434, designates a timberland parcel or portion thereof as inoperable, such timberland parcel, or portion thereof, shall be valued as if it is Site V.

(b) On or before January 1, 1980, and every third year thereafter, the board after consultation with the timber advisory committee and in compliance with procedures set forth for adoption of rules under the Administrative Procedure Act, shall adopt schedules reestablishing the value of each grade of timberland graded pursuant to Section 434 as if it were bare of forest growth, and recognizing that the restricted use of the land is for growing and harvesting timber and compatible uses. The board shall certify such values to county assessors by January 10 of each year. Such schedule shall remain in effect until subsequent revision pursuant to the provisions of this subdivision.

(c) Commencing January 1, 1977, the board shall collect such data as may be necessary to accurately value timberland pursuant to subdivision (b).

(d) In promulgating regulations pursuant to subdivision (b) the board shall determine the value of such timberland subject to the following:

(1) The board shall base the value of such land upon the existence of a 10-year enforceable restriction using commonly accepted systems of valuation.

(2) When the board is valuing timberland property within a timberland preserve zone by comparison with sales of other timberland properties in order to be considered comparable, the properties sold shall be at least 160 acres in size and shall be similarly restricted under a timberland preserve zone. Size and any discount

for size and amenities shall not be factors in determining the value of land zoned as timberland preserve which is valued by a method employing the use of comparable sales.

(e) For purposes of this section, the value of each acre of timberland within each site class, within a timberland preserve zone, shall be presumed no greater than the value derived pursuant to subdivision (f).

(f) The board shall:

(1) Prepare, or cause to be prepared, timberland site capability tables which shall prescribe by site classification the potential annual yield of wood by species or mixture of species per acre.

(2) Multiply the potential annual yield by 10 percent.

(3) Multiply the result of paragraph (2) by an immediate harvest value, averaged for the previous 20 quarters, that is appropriate for the geographical area wherein such timberland values shall be applied.

(4) Divide the result of paragraph (3) by a capitalization rate of 10 percent expressed as a decimal.

Pursuant to paragraph (2) of this subdivision, the Legislature declares that 10 percent is the average percent of income from potential annual yield of wood that can be attributed to timberland as a productive component contributing to such income, and the Legislature finds that it is in the public interest that values derived from analysis of sales of timberland restricted under timberland preserve zones shall not exceed this percentage.

(g) For the purposes of this section, the value of each acre of timberland within a timberland preserve zone shall be presumed to be no less than twenty dollars (\$20) per acre.

(h) For the purposes of this section, the term "value" (and its derivatives) means "full value" as defined in Section 110.5.

(i) The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of subdivision (j) of Section 3 of Article XIII of the Constitution.

## Article 2.5. Change in Ownership Reporting

480. Whenever any change in ownership of real property or of a mobilehome subject to local property taxation occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided for in subdivision (b).

(a) The change in ownership statement shall be declared to be true under penalty of perjury and shall give such information relative to the real property or mobilehome acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. Such information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 14-point boldface type and the body in at least 10-point boldface type, in the following form:

### "Important Notice"

"The law requires any person acquiring an interest in real property or mobilehome subject to local property taxation to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed within 45 days of the date of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days after receipt of a written request by the assessor results in a penalty of one hundred dollars (\$100) or 10 percent of the current year's taxes on the real property or mobilehome, whichever is greater. This penalty will be added to the roll and shall be treated and collected like, and shall be subject to the same penalties for delinquency as, all other taxes on the roll on which it is entered."

(b) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed either with the recorder at the time of recordation or with the assessor within 45 days from the date of recordation. If the document evidencing a change in ownership is not recorded, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(c) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(d) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(e) Upon receipt of a change in ownership statement which has either been transmitted by the county recorder's office or been filed directly by the transferee, the assessor shall enter the prior assessment year value and an indication as to whether a change in ownership, as defined in Section 60, has occurred on the statement.

(f) In the case of a corporate transferee of property, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation.

481. All information requested by the assessor pursuant to this article or furnished in the change in ownership statement shall be held secret by the assessor. The statement is not a public document and is not open to inspection, except as provided in Section 408.

482. If any person who is requested by the assessor to make a change in ownership statement fails to file such statement within 45 days from the date of request, a penalty of the greater of one hundred dollars (\$100) or 10 percent of the current year's taxes on the real property or mobilehome shall be added to the assessment made on the current roll. The penalty shall be added in the same manner prescribed in Article 4 (commencing with Section 531) of this chapter for the addition of escape assessments, and shall be treated and collected like, and shall be subject to the same penalties for the delinquency as, all other taxes on the roll in which it is entered.

Notice of any penalty added to the roll pursuant to this section shall be mailed by the assessor to the assessee at his address as contained in any recorded instrument or document evidencing a change in ownership or at any address reasonably known to the assessor.

483. If the assessee establishes to the satisfaction of the county board of supervisors that the failure to file the change in ownership statement within the time required by Section 480 was due to reasonable cause and not due to willful neglect, and has filed the statement with the assessor, the board of supervisors may order the penalty abated, provided the assessee has filed with the board of supervisors written application for abatement of the penalty no later than 60 days after the date on which the assessee was notified of the penalty.

If the penalty is abated it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

484. With the exception of the penalty provision of Section 463, the provisions of Article 2 (commencing with Section 441) shall be available to the assessor for the purposes of securing change in ownership information required for assessment purposes.

485. If, after written request by the assessor, any person fails to comply with any provision of law for furnishing information required by Section 480, the assessor, based upon information in his possession, shall estimate the value of the property and, based upon this estimate, promptly assesses the property.



(miscellaneous)

532.3. Notwithstanding the provisions of Section 532, any property which escaped taxation or was underassessed for the 1975-76 fiscal year may be assessed; provided, such assessment is made on or before June 30, 1980.

619. (a) Except as provided in subdivision (f), the assessor shall, upon or prior to completion of the local roll, either:

(1) Inform each assessee of real property on the local secured roll whose property's full value has increased of the assessed value of that property as it shall appear on the completed local roll; or

(2) Inform each assessee of real property on the local secured roll, or each assessee on the local secured roll and each assessee on the unsecured roll, of the assessed value of his real property or of both his real and his personal property as it shall appear on the completed local roll.

(b) The information given by the assessor to the assessee pursuant to ~~subdivision (a) or (b)~~ *paragraph (1) or (2) of subdivision (a)* shall include a notification of hearings by the county board of equalization, which shall include the period during which assessment protests will be accepted and the place where they may be filed. The information shall also include an explanation of the stipulation procedure set forth in Section 1608 and the manner in which the assessee may request use of this procedure.

(c) The information shall also include the assessment ratio for the county as provided in Section 401 and the full value of the property.

(d) The information shall be furnished by the assessor to the assessee by regular United States mail directed to him at his latest address known to the assessor.

(e) Neither the failure of the assessee to receive the information nor the failure of the assessor to so inform the assessee shall in any way affect the validity of any assessment or the validity of any taxes levied pursuant thereto.

(f) This section shall not apply to annual increases in the valuation of property which reflect the inflation rate, not to exceed 2 percent, pursuant to the authority of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for purposes of property tax limitation determinations.

1367. Every county assessor shall ascertain the total assessed value of homes receiving the homeowners' property tax exemption described in Section 218 and shall report to the board during each fiscal year, commencing with the 1979-80 fiscal year, the total valuation of properties receiving such exemption each year.

1603. (a) A reduction in an assessment on the local roll shall not be made unless the party affected or his agent makes and files with the county board a verified, written application showing the facts claimed to require the reduction and the applicant's opinion of the full value of the property. The form for such application shall be prescribed by the State Board of Equalization.

(b) The application shall be filed within the time period beginning July 2 and continuing through and including September 15. An application that is mailed and postmarked September 15 or earlier within such period shall be deemed to have been filed within the time period beginning July 2 and continuing through and including September 15. For the 1979-80 fiscal year only, the September 15 deadline shall be extended to October 1.

(c) In the form provided for making application pursuant to this section, there shall be a notice that written findings of facts of the local equalization hearing will be available upon written request at the requester's expense and, if not so requested, the right to such written findings is waived. The form shall provide appropriate space for the applicant to request written findings of facts as provided by Section 1611.5.

2516. Upon the failure of a transferee to file a change in ownership statement required by Section 480, the assessor or the auditor shall immediately enter on the assessment records applicable to the real property, the fact that a penalty has been added to the assessment roll and specify the date and amount thereof.

4843. For the 1978-79 fiscal year only, notwithstanding any other provisions of this division, the assessor may make corrections to the 1978-79 roll during such fiscal year, or for the purposes of making refunds, during the 1979-80 fiscal year without a prior hearing by, or the prior approval of, the board of supervisors. If the assessment change results in a reduction of taxes which have been paid, the amount of the overpayment resulting from such reduction of taxes may be refunded to the current assessee whether or not a refund claim has been filed by the person who paid the taxes.

4844. For the 1979-80 fiscal year only, notwithstanding any other provisions of this division, the assessor may make corrections to the 1979-80 roll during such fiscal year without a prior hearing by, or the prior approval of, the board of supervisors. If the assessment change results in a reduction of taxes which have been paid, the amount of the overpayment resulting from such reduction of taxes may be refunded to the current assessee, unless there was a change in the assessee or assessees of record between July 1, 1979, and June 30, 1980, in which case a refund of such reduced taxes shall be prorated between such assessees of record in the same proportion as they participated in the payment of such taxes.

GOVERNMENT CODE SECTIONS

(miscellaneous)

16140. There is hereby continuously appropriated to the Controller from the State General Fund a sum sufficient to make the payments required by this chapter.

The payments provided by this chapter shall be made only when the value of each parcel of open-space land assessed under Sections 423 and 423.5 of the Revenue and Taxation Code is less than the value that would have resulted if the valuation of the property was made pursuant to Section 110.1 of the Revenue and Taxation Code, as though the property were not subject to an enforceable restriction in the base year.

27280. (a) Any instrument or judgment affecting the title to or possession of real property may be recorded pursuant to this chapter.

(b) Any instrument or document submitted for recordation which effectuates a change in ownership may be accompanied by a change in ownership statement as provided for in Section 480 of the Revenue and Taxation Code. Upon receipt of such change in ownership statement, the recorder shall transmit, as soon as possible, the original statement or true copy thereof to the county assessor along with the recorded document as required by Section 255.7 of the Revenue and Taxation Code. The change in ownership statement shall not be recorded nor open and available to public inspection and shall at all times remain confidential, except as provided in Section 408 of the Revenue and Taxation Code.

27321. The recorder shall endorse upon each instrument the book and page in which it is recorded, and shall thereafter mail, or if specified to the contrary deliver, it to the person named in the instrument for return mail, and if no such person is named, to the party leaving it for record.

Where any recorded instrument or document effectuating a change in ownership is not accompanied by a change in ownership statement, the recorder shall either include with the return of any such recorded instrument or document a change in ownership statement as provided in Section 480 of the Revenue and Taxation Code or specifically identify those recorded documents not accompanied by an ownership statement when providing the assessor with a copy of the transfer of ownership document pursuant to Section 255.7 of the Revenue and Taxation Code.

UNCODIFIED SECTIONS

(Sections 2,3,4 of SB 17)

Sec. 2. (a) Section 1 of this act shall be applied to the 1978-79 fiscal year and fiscal years thereafter.

(b) Except as otherwise provided in this subdivision, if the value of any property is reduced pursuant to Section 110.1 of the Revenue and Taxation Code, the reduced taxes resulting therefrom shall be refunded or shall be reflected in a corresponding reduction in the next succeeding tax installment or installments for such property in the 1979-80 fiscal year unless there was a change in the owner or owners of record between July 1, 1978, and June 30, 1979, in which case a refund of such reduced taxes shall be prorated between such owners of record in proportion to the time they owned the property during the fiscal year. In the event that the current address of a former owner of record of such property entitled to share in any such refund is not known to the county, that portion of such refund shall be withheld by the county and the owner may claim a refund from the county treasurer at any time prior to July 1, 1980. No reduction or refund shall be given pursuant to this subdivision of any amount previously levied to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978.

SEC. 3. It is the intent of the Legislature to correct an improper assessment practice which has resulted from the misinterpretation of Article XIII A of the California Constitution, as added to the California Constitution pursuant to the approval by the voters, of Proposition 13 on the ballot for the Direct Primary Election held June 6, 1978, and Section 110.1 of the Revenue and Taxation Code, as added by Chapter 292 of the Statutes of 1978, amended by Chapter 332 of the Statutes of 1978, and further amended by Chapter 576 of the Statutes of 1978.

It is further the intent of the Legislature that this act be construed as an act necessary for the implementation of Proposition 13, and, as such, is not a cost mandated by the state.

No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

SEC. 4. This act clarifies the intent of Article XIII A of the California Constitution and Chapters 292 and 332 of the Statutes of 1978, to correct the administrative interpretation of such provisions which has resulted in the incorrect assessment of certain properties, and does not make a substantive change. It is the intent of the Legislature that counties which have established base year values in conformity with the intent of Section 110.1 of the Revenue and Taxation Code, as clarified by this act, shall not be required to redetermine such base year values.

(Sections 41, 42, 43 of AB 1488)

SEC. 41. (a) Notwithstanding the provisions of Sections 110.1 and 110.6, as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, and amended by Chapters 332 and 576 of the Statutes of 1978, the provisions of this act shall be effective for the 1979-80 assessment year and thereafter, except as provided in Section 42 of this act.

It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1979-80 assessment year and thereafter, including, but not limited to, any change in ownership occurring on or after March 1, 1975.

SEC. 42. No creation, termination, assignment or sublease of a leasehold interest on or after March 1, 1975, and no transfer of property subject to a lease on or after March 1, 1975, shall constitute a change in ownership, unless it is defined as a change in ownership under subdivision (c) of Section 61 and subdivision (g) of Section 62.

SEC. 43. Except as otherwise provided in this act, or in Chapter 49 of the Statutes of 1979, no escape assessments shall be levied and no refund shall be made for any years prior to 1979-80 for any increases (or decreases) in value made in 1978-79 as the result of the enactment of Article XIII A of the Constitution, and Chapters 292 and 332 of 1978 or this act, except that any refunds which result from appeals filed for 1978-79 in a timely manner or pursuant to Chapter 24 of the Statutes of 1979 shall be made.

(Section 19 of AB 1019)

SEC. 19. (a) Notwithstanding the provisions of Sections 110.1 and 110.6, as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, and amended by Chapters 332 and 576 of the Statutes of 1978, the provisions of this act shall be effective for the 1979-80 assessment year and thereafter.

It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1979-80 assessment year and thereafter, including, but not limited to, any change in ownership occurring on or after March 1, 1975.

APPENDIX VII

BOARD OF EQUALIZATION  
PROPERTY TAX RULES AND REGULATIONS  
1979-80 AND THEREAFTER

- (1) Rules 460-471  
(Effective August 22, 1979)
- (2) Assessor's Letter: SB 17  
and base year values
- (3) Assessor's Letter: Effect of  
AB 1488 on escape assessments



State of California

BOARD OF EQUALIZATION

PROPERTY TAX DEPARTMENT

PROPERTY TAX RULES AND REGULATIONS  
IN EFFECT FOR 1979-80 AND THEREAFTER

Chapter 1. State Board of Equalization – Property Tax  
Subchapter 4. Equalization by State Board  
Article 3. Taxable Property of a County, City or Municipal Corporation

**Rule No. 460. (Cal. Adm. Code) GENERAL APPLICATION**

Reference: Article XIII A, Sections 1 and 2, California Constitution.

(a) Sections 1 and 2 of Article XIII A of the Constitution provide for a limitation on property taxes and a procedure for establishing the current taxable value of locally assessed real property by reference to a base year full cash value which is then modified annually to reflect the inflation rate not to exceed two percent per year.

(b) The following definitions govern the construction of the terms in the rules pertaining to Sections 1 and 2 of Article XIII A.

(1) **BASE YEAR.** The assessment year 1975-76 serves as the original base year. Thereafter, any assessment year in which real property, or a portion thereof, is purchased, is newly constructed, or changes ownership shall become the base year used in determining the full value for such real property, or a portion thereof.

(2) **FULL CASH VALUE.**

(A) The full cash value of real property means:

1. The "full cash value" as defined in Section 110.1 of the Revenue and Taxation Code, as of the lien date 1975 for properties with a 1975-76 base year, or

2. The "full cash value" as defined in Section 110 of the Revenue and Taxation Code as of the date such real property is purchased, is newly constructed, or changes ownership after the 1975 lien date, the full cash value of which shall be enrolled on the lien date next succeeding the date when such real property, or portion thereof, is purchased, is newly constructed, or changes ownership.

(B) If real property has not been appraised to its appropriate base year full cash value, then the assessor shall reappraise such property to its full cash value for the appropriate base year lien date. Such reappraisals may be at any time, notwithstanding the provisions of Section 405.6 of the Revenue and Taxation Code but 1975-76 base year values must be determined prior to July 1, 1980.

(3) **RESTRICTED VALUE.** Restricted value means a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

(4) **FULL VALUE.** Full value (appraised value) means either the full cash value or the restricted value.

(5) **INFLATION RATE.** For each lien date after the lien date in which the base year full value is determined, the full value of real property shall be modified to reflect the percentage change in cost of living, as defined in Section 2212 of the Revenue and Taxation Code; provided that such value shall not reflect an increase in excess of 2 percent of the taxable value of the preceding lien date.

**Rule No. 460. (Cal. Adm. Code) GENERAL APPLICATION. (Continued)**

(6) **TAXABLE VALUE.** Taxable value means the base year full value adjusted for any given lien date as required by law or the full cash value for the same lien date, whichever is less.

(7) **PROPERTY TAX RATE.** The property tax rate is the rate calculated in accordance with the ad valorem tax limitations prescribed by Section 1 of Article XIII A of the Constitution.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

**Rule No. 460.1. (Cal. Adm. Code) 1975 BASE YEAR VALUES.**

Reference: Section 110.1, Revenue and Taxation Code as amended by Chapter 49, Statutes 1979

(a) For the 1978-79 fiscal year and years thereafter, the assessor shall determine base year value for property or portion thereof with a 1975 base year at the value appearing on the 1975-76 assessment roll when that value resulted from a "periodic appraisal" made for the 1975 lien date, whether or not the 1975-76 roll value differed from the 1974-75 assessment roll value.

(b) The value of a parcel of property shall be presumed to have been determined pursuant to a "periodic appraisal" for the 1975-76 fiscal year if the assessor's determination of the value for that year differed from the 1974-75 assessment roll value, but the assessor may rebut the presumption by evidence that notwithstanding such differences in value, the property was not "periodically appraised" for the 1975-76 fiscal year.

Value differences between the 1974-75 and 1975-76 assessment rolls resulting from such things as zoning changes, new construction, or interim adjustments not designed to equal 1975 general revaluation levels will not be considered as resulting from "periodic appraisals."

(c) For the 1978-79 fiscal year and years thereafter, any property or portion thereof whose 1975-76 value was determined as a result of an appeal filed in 1975 with a county board shall have that value as its 1975-76 base year value.

(d) The base year value of any property not appraised for the 1975 lien date or not determined as a result of an assessment appeal filed in 1975 shall be valued by the assessor using only those factors and indicia of fair market value actually utilized in "periodic appraisals" made for the 1975 lien date. Such values shall be consistent with the values established for comparable properties that were reappraised for the 1975 lien date.

(e) Determinations of value made pursuant to (d) of this section shall be made at any time until June 30, 1980, and if made prior to June 30 of any year may be added to either the roll for the fiscal year in which the value determination is made or included with the assessments for the succeeding fiscal year.

No escape assessments may be made because of value increases to the 1975 base year that result from redetermination of values pursuant to this section, but decreases in such values shall be certified to the auditor by the assessor as corrections to the roll prepared for the 1978-79 fiscal year and fiscal years thereafter, as is appropriate.

History: Adopted May 23, 1979, effective May 25, 1979.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

**Rule No. 461. (Cal. Adm. Code) REAL PROPERTY VALUE CHANGES.**

Reference: Article XIII A, Sections 1 and 2, California Constitution.

(a) Section 2 of Article XIII A of the California Constitution provides that real property shall be reappraised if purchased, newly constructed (Section 463) or a change in ownership occurs (Section 462) after the original base year. A purchase is any transfer of title or right to the use, occupancy, possession or profit a prendre of real property, or portion thereof, for a consideration.

(b) Unless otherwise provided for in this chapter, real property which was not subject to valuation in any prior base year shall be appraised at full value on the lien date immediately following discovery.

(c) The prior year taxable value of real property, or portion thereof, physically removed from the site shall be deducted from the property's prior year taxable value, provided that such net value shall not be less than zero. The net value shall be appropriately adjusted to reflect the percentage change in the cost of living and then compared to the current lien date full value to determine taxable value which shall be the lesser of the two values.

(d) For the tax year 1979-80 and tax years thereafter the assessor shall prepare an assessment roll containing the base year value appropriately indexed or the current lien date full value, whichever is less. Increases and decreases in full cash value since the previous lien date shall be reflected on the roll except that taxable value shall never exceed base year value appropriately indexed. Property restored following damage caused by a misfortune or calamity is to be valued pursuant to subsection (e) and not this subsection. In preparing such rolls the assessor is not required to make an annual reappraisal of all assessable property.

Declines in value will be determined by comparing the current lien date full value of the appraisal unit to the indexed base year full value of the same unit for the current lien date. Land and improvements constitute an appraisal unit except when measuring declines in value caused by disaster, in which case land shall constitute a separate unit. For purposes of this subsection fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit.

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.

(e) The taxable value of real property damaged or destroyed by a misfortune or calamity is to be adjusted in accordance with the Revenue and Taxation Code. If the property is restored, the assessor shall on the lien date following restoration enroll it at its former value plus the appropriate inflation adjustment, unless:

1. The full value of the restored property as of the lien date is less than the indexed base year full value in which case the lower value shall be enrolled as the new base year value, or

2. It is determined that new construction has occurred in which case the property's value shall be enrolled as provided in Section 463.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

**Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP.**

Reference: Article XIII A, Sections 1 and 2, California Constitution.

There shall be a reappraisal of real property as of the date of the change in ownership of that property. The reappraisal will establish a new base year full value and will be enrolled on the lien date following the change in ownership.

A "change in ownership" in real property occurs when there is a transfer of a present interest in the property, including the right to beneficial use thereof, the value of which is substantially equal to the value of the fee interest. Except as otherwise provided in this section, "change in ownership" includes all transfers of property, whether voluntary, involuntary or by operation of law, by grant, devise, inheritance, trust, contract of sale, addition or deletion of an owner or any other means. A change in the name of an owner of property not involving a change in ownership is excluded from the term "transfer" as used in this section.

(a) A transfer of the full fee title to land and/or improvements or a portion thereof by any means is a change in ownership requiring reappraisal of the property or portion thereof transferred. This includes transfers of units in planned developments as defined in Sections 11003 and 11003.1 of the Business and Professions Code, units in cooperative housing developments controlled by cooperative housing corporations as defined in Section 17265 of the Revenue and Taxation code and condominiums as defined in Section 783 of the Civil Code.

If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or otherwise changes ownership as defined in this section, only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lots shall be reappraised.

(b) The transfer of an undivided interest in property does not constitute a change of ownership if:

(1) The transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change to the proportional interests held by the co-owners prior to the transfer, such as a partition of a tenancy in common, or

(2) The transfer creates or transfers any joint tenancy interest and after such creation or transfer the transferor is one of the joint tenants.

(3) The transfer creates or transfers a co-owner's interest between spouses.

(4) The transfer terminates a joint tenancy, tenancy in common or a community property interest but is to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

(5) The transfer terminates a joint tenancy and returns property or an interest therein to the person (s) or entity (ies) that originally placed it in joint tenancy. It shall be rebuttably presumed by the assessor that each joint tenant holding an interest in property as of March 1, 1975, originally placed in joint tenancy the interest received on termination. This presumption is not applicable to joint tenancies created after March 1, 1975.

(6) The transfer is of an undivided interest of less than five percent provided that transfers of such interest during any assessment year to affiliated transferees shall be accumulated for the purpose of determining the percentage transferred.

For purposes of this subdivision affiliated transferees shall include, but not be limited to family members, related by blood or marriage, other than the transferor's spouse, business associates, partners, joint ventures, corporations under common ownership or control or any combination of the foregoing.

When the accumulated interests transferred during any assessment year total five percent or more, exclusive of any interest transferred to a spouse, only that portion of the property represented by the accumulated interests shall be reappraised.

Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP. (Continued 1)

(c) A transfer of equitable title is a change in ownership.

(d) The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term is a change in ownership except when the interest, whether an estate for years or an estate for life, is created by a reservation in an instrument deeding the property to a tax exempt governmental entity.

(e) The creation, sublease, assignment or termination of the right to beneficial use and possession of taxable real property and the transfer of the lessor's interest in any leased property constitutes a change in ownership or not as follows:

(1) The creation of a leasehold interest in real property for a term of 35 years or more or the transfer of a leasehold interest with a remaining term of 35 years or more or the termination of a leasehold interest which had an original term of 35 years or more is a change in ownership.

The calculation of the term of a lease for purposes of this section shall include written renewal options.

(2) The sublease or assignment of a leasehold interest in taxable property with a remaining term of less than 35 years, including renewal options, is not a change of ownership regardless of the original term of the lease.

(3) The transfer of a lessor's interest in taxable real property subject to a lease with a remaining term, including renewal options, of less than 35 years is a change in ownership.

The transfer of a lessor's interest in taxable real property subject to multiple leases, one or more of which is for a period of less than 35 years and one or more of which is for a period of 35 years or more, is a change of ownership only to the extent of the property subject to a lease(s) of less than 35 years.

(f) Foreclosure.

(1) Mortgage or deed of trust foreclosed by judicial action is a sufficient change in ownership only:

- (A) After the period of redemption has passed and property has not been redeemed, or
- (B) Upon redemption when title vests in the original debtor's successor in interest.

(2) Deed of trust foreclosed by trustee's sale shall cause a reappraisal as of the date of the sale.

(3) A transfer by a trustor in lieu of a trustee's foreclosure sale constitutes a change in ownership.

(g) Transfers resulting from tax delinquency.

Transfers by the sale to or deed to the state and redemption by the former assessee shall not be considered as changes in ownership. However, a sale by the state whether to the original owner or to a new owner is a change in ownership requiring reappraisal as of the date of the sale.

(h) Trusts – creation and termination.

(1) The transfer of real property to a trust is a change in ownership at the time of transfer unless:

- (A) The transferor or the transferor's spouse is the present beneficiary of the trust, or
- (B) The trust is revocable, or
- (C) The transferor retains the reversion and the beneficial interest(s) created does not exceed 12 years in duration.
- (D) The exemption afforded interspousal transfers applies.
- (E) The transfer is from one trust to another and meets the requirements of (A), (B), (C) or (D).

Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP. (Continued 2)

- (2) The termination of a trust or portion thereof constitutes a change in ownership unless:
  - (A) The trust was for less than 12 years duration and on termination the property reverts to the trustor or the trustor's spouse or
  - (B) The exemption afforded interspousal transfers applies or
  - (C) Termination results from the transferor's exercise of the power of revocation.
- (3) A change in ownership of trust property also occurs when:
  - (A) A revocable trust becomes irrevocable unless the transferor or the transferor's spouse remains or becomes the present beneficiary of the trust, or
  - (B) Neither the transferor nor the transferor's spouse is a present beneficiary of an irrevocable trust.

(i) Partnership.

Real property which is contributed to a partnership or which is acquired, by purchase or otherwise, by the partnership is a change in ownership of such real property, regardless of whether the title to the property is held in the name of the partnership or in the name of one or more individual partners, with or without reference to the partnership. The transfer of any interest in real property by a partnership to a partner or any other person or entity constitutes a change in ownership. The purchase or transfer of an ownership interest(s) in a partnership(s), e.g., the addition or deletion of partners, is not a change in ownership in partnership property.

(j) Corporations.

(1) The purchase or transfer of corporate stock(s) is not a change in ownership in corporate property unless:

(A) The stock is in a cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code, and the transfer conveys the exclusive right to occupancy to corporate property or a portion thereof, or

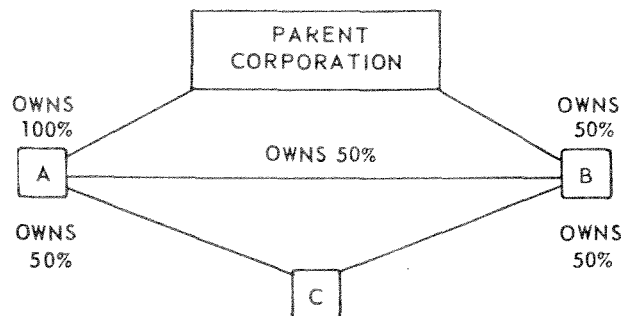
(B) One corporation as the result of one or multiple transfers obtains control of more than 50 percent of the voting stock, exclusive of any shares owned by directors, of another corporation.

(2) Transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization by merger or consolidation shall not be a change of ownership if:

(A) The voting stock of the corporation making the transfer and the voting stock of the transferee corporation are each owned 100 percent by a corporation related by voting stock ownership to a common parent; and

(B) The common parent corporation owns directly 100 percent of the voting stock of at least one corporation in the chain or chains of related corporations.

SIMPLE EXAMPLE



Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP. (Continued 3)

A transfer of real property by P, A, B, or C to any of the other three corporations would not be a change in ownership, e.g., a transfer by C which is wholly owned by A and B to B which is wholly owned by A and P would not be a change in ownership because of those relationships and the fact P owns 100 percent of A.

(3) The purchase or transfer of stock or membership certificates in a housing cooperative is not a change in ownership provided the cooperative was financed under one mortgage, was insured under Sections 202, 213, 221 (d) (3), 221 (d) (4), or 236 of the National Housing Act, as amended, or was financed by a direct loan from the California Housing Finance Agency and the Regulatory and Occupancy Agreements were approved by the respective insuring or lending agency.

(k) Interspousal transfers.

Notwithstanding any other provision of Sections 460 through 471 of this code, a change in ownership shall not include any interspousal transfer, including, but not limited to:

- (1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,
- (2) Transfers which take effect upon the death of a spouse,
- (3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or
- (4) The creation, transfer, or termination, solely between spouses, of any co-owner's interest.

(l) The following transfers do not constitute a change of ownership:

- (1) The transfer of bare legal title, e.g.,
  - (A) Any transfer to an existing assessee for the purpose of perfecting title to the property.
  - (B) Any transfer resulting in the creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession or profits.
- (2) Any transfer caused by the substitution of a trustee pursuant to the terms of a security or trust instrument.
- (3) Any transfer by an instrument whose terms reserve to transferor, the transferor's spouse or both of them an estate for years or an estate for life. When such reserved estates both terminate and if the provisions of this section relating to trusts and interspousal transfers do not provide otherwise, a change in ownership shall be deemed to have occurred.
- (4) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.
- (5) Any contribution of real property to an employee benefit plan or the creation, vesting, transfer, distribution or termination of a participant's or beneficiary's interest in such a plan. The terms used herein shall have the meaning ascribed to them by the Employee Retirement Income Security Act of 1974.

(m) Date of change in ownership.

For purposes of reappraising real property as of the date of change in ownership of real property, the following dates shall be used:

(1) Sales.

(A) Where the transfer is evidenced by recordation of a deed or other document, the date of recordation shall be rebuttably presumed to be the date of ownership change.

This presumption may be rebutted by evidence proving a different date to be the date all parties' instructions have met in escrow or the essential elements of a contract of sale have been met.

**Rule No. 462. (Cal. Adm. Code) CHANGE IN OWNERSHIP. (Continued 4)**

(B) Where the transfer is accomplished by an unrecorded document, the date the transferee obtained the right to possession and/or beneficial use shall be rebuttably presumed to be the date of ownership change. This presumption may be rebutted by evidence proving a different date.

(2) Leases. The date the lessee has the right to possession.

(3) Inheritance (by will or intestate succession). The date of death of the decedent.

(4) Trusts.

(A) Revocable. The date the trust becomes irrevocable.

(B) Irrevocable. The date property is placed in trust.

NOTE: Refer to subsection (h) for trust transfer exemptions.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

**Rule No. 463. (Cal. Adm. Code) NEWLY CONSTRUCTED PROPERTY**

Reference: Article XIII A, Sections 1 and 2, California Constitution.

(a) When real property, or a portion thereof, is newly constructed after the 1975 lien date, the assessor shall ascertain the full value of such "newly constructed property" as of the date of completion. This will establish a new base year full value for only that portion of the property which is newly constructed, whether it is an addition or alteration. The taxable value on the total property shall be determined by adding the full value of new construction to the taxable value of preexisting property reduced to account for the taxable value of property removed during construction. The full value of new construction is only that value resulting from the new construction and does not include value increases not associated with the new construction.

(b) "Newly constructed" or "new construction" means and includes:

(1) Any substantial addition to land or improvements, including fixtures, such as adding land fill, retaining walls, curbs, gutters or sewers to land or constructing a new building or swimming pool or changing an existing improvement so as to add horizontally or vertically to its square footage or to incorporate an additional fixture, as that term is defined in this section.

(2) Any substantial physical alteration of land which constitutes a major rehabilitation of the land or results in a change in the way the property is used.

Examples of alterations to land to be considered new construction are:

Site development of rural land for the purpose of establishing a residential subdivision.

Altering rolling, dry grazing land to level irrigated crop land.

Preparing a vacant lot for use as a parking facility.

In any instance in which an alteration is substantial enough to require reappraisal, only the value of the alteration shall be added to the base year value of the pre-existing land or improvements. Increases in land value caused by appreciation or a zoning change rather than new construction shall not be enrolled, for example:



Rule No. 463. (Cal. Adm. Code) NEWLY CONSTRUCTED PROPERTY. (Continued 1)

1. Land value 1975	=	\$10,000
2. Land value 1978	=	\$20,000
3. Value of alteration 1978	=	\$ 5,000
4. Value of structure added 1978	=	\$75,000
1979 roll value (1+3+4)	=	\$90,000 (must be adjusted to reflect appropriate indexing)

Alterations to land which do not constitute a major rehabilitation or which do not result in a change in the way the property is used shall not result in reappraisal.

(3) Any physical alteration of any improvement which converts the improvement or any portion thereof to the substantial equivalent of a new structure or portion thereof or changes the way in which the portion of the structure that had been altered is used, e.g., physical alterations to an old structure to make it the substantial equivalent of a new building without any change in the way it is used or alterations to a warehouse that makes it usable as a retail store or a restaurant. Only, the value, not necessarily the cost, of the alteration shall be added to the appropriately indexed base year value of the pre-existing structure.

(4) Excluded from alterations that qualify as "newly constructed" is construction or reconstruction performed for the purpose of normal maintenance and repair, e.g., routine annual preparation of agricultural land or interior or exterior painting, replacement of roof coverings or the addition of aluminum siding to improvements or the replacement of worn machine parts.

(5) Any substantial physical rehabilitation, renovation or modernization of any fixture which converts it to the substantial equivalent of a new fixture or any substitution of a new fixture. Substantial equivalency shall be ascertained by comparing the productive capacity, normally expressed in units per hour, of the rehabilitated fixture to its original productive capacity.

(c) For purposes of this section, "fixture" is defined as an improvement whose use or purpose directly applies to or augments the process or function of a trade, industry, or profession.

(d) New construction in progress on the lien date shall be appraised at its full value on such 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.

(e) For purposes of this section, the date of completion is the date the property or portion thereof is available for use. In determining whether the real property or a portion thereof is available for use, consideration shall be given to the date of the final inspection by the appropriate governmental official, or, in the absence of such inspection, the date the prime contractor fulfilled all of his contract obligations, or in the case of fixtures, the date of the completion of testing of machinery and equipment.

(f) Newly constructed property does not include real property which is timely reconstructed after a disaster where the full value of such real property, as reconstructed, is substantially equivalent to its full value prior to the disaster. If the values are not substantially equivalent, the assessor shall on lien date following restoration:

(1) Enroll the restored property at its former taxable value plus or minus the appropriate inflation adjustment, or

(2) Enroll the current market value of the restored property if the current market value is less than the value found in Item 1 above, or

**Rule No. 463. (Cal. Adm. Code) NEWLY CONSTRUCTED PROPERTY. (Continued 2)**

(3) Enroll the value found in Item 1 above plus the market value of any newly constructed property if it is determined that new construction has occurred.

For purposes of this subsection only, newly constructed property does not include any land, improvement or fixture that is restored, reconstructed or repaired in a timely manner following a disaster and which is substantially equivalent in size, use and quality to that which existed prior to the disaster.

(g) For property under reconstruction or restoration as a result of disaster which changes ownership prior to the completion of reconstruction or restoration, the value of the land and existing improvements shall be determined as of the date of the change in ownership but the value of any reconstruction or restoration which occurs following the transfer shall be determined as of the date of completion in accordance with the provisions applicable to new construction but without regard to the "substantially equivalent" test normally applicable to property reconstructed following a disaster.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

**Rule No. 464. (Cal. Adm. Code) EXEMPTIONS.**

Reference: Sections 110, 110.1, 110.5, 110.6, Revenue and Taxation Code

Article XIII A does not repeal any property tax exemptions granted or authorized by the Constitution on or before July 1, 1978. The property tax rate shall apply to the current taxable value less any exemptions applicable to a specific property. Examples of the application of partial exemptions are as follows:

(a) Homeowners' exemption. The property tax rate applies to the current taxable value of property qualifying for the homeowners' exemption less the value of the exemption.

(b) Veterans' exemption. The sum of 25 percent of the taxable value of taxable assets and 100 percent of the current full cash value as defined in Revenue and Taxation Code Section 110 for non-taxable assets will determine the limitation for the veterans' property tax exemption. Article XIII A contains no provision for reconsidering the granting of the exemption prior to 1978. The property tax rate applies to the current taxable value of property qualifying for the veterans' exemption less the value of the exemption.

(c) Disabled veterans' exemption. The property tax rate applies to current taxable value of property qualifying for the disabled veterans' property tax exemption less the value of the exemption.

History: Adopted June 29, 1978, effective July 3, 1978.

**Rule No. 465. (Cal. Adm. Code) NONPROFIT GOLF COURSES.**

Reference: Article XIII A, Sections 1 and 2, California Constitution.

When appraising real property used exclusively for nonprofit golf course purposes in accordance with the provisions of Section 10 of Article XIII of the California Constitution, the assessor shall for the 1979 lien date and thereafter ascertain the value of such property on the basis of such use, plus the full value attributable to any mineral rights without regard to any of the provisions of Section 2 of Article XIII A of the California Constitution or its implementing legislation.

History: Adopted June 29, 1978, effective July 3, 1978.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

**Rule No. 466. (Cal. Adm. Code) VALUATION AND ENROLLMENT OF TREES AND VINES**

Reference: Article XIII A, Sections 1 and 2, California Constitution.

All fruit and nut trees and vines when planted respectively in orchard or vineyard form shall be exempt as provided by law. Upon becoming subject to tax, previously exempt trees and vines shall be valued for the 1979 date and thereafter as follows:

(a) Those planted in land enforceably restricted shall be annually valued pursuant to the provisions of Section 470 herein without regard to the provisions of Section 2 of Article XIII A of the California Constitution.

(b) Those planted in land not enforceably restricted shall be enrolled at their base year value appropriately adjusted to reflect annual increases in the consumer price index not to exceed two percent or at their full value for the current lien date, whichever is less.

(1) The base year for trees and vines planted in land not enforceably restricted shall be the year they became subject to taxation unless that year was prior to 1975 in which case the base year is 1975.

(c) Perennials, other than trees and vines, planted for their commercial production on enforceably restricted land shall be valued annually as provided in Section 470. If they are planted on land not enforceably restricted, they shall be valued and have the same base year as the land unless planted after lien date 1975 in which case their value as of the date of planting shall be their original base year value.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

**Rule No. 467. (Cal. Adm. Code) TAXABLE POSSESSORY INTEREST.**

Reference: Article XIII A, Sections 1 and 2, California Constitution.

For the 1979 lien date and thereafter the assessor shall ascertain the value of all taxable possessory interests as defined in Section 21 of this code and created prior to March 1, 1975, as of that date. Possessory interests newly created subsequent to March 1, 1975, shall be appraised at their full value as of the date of creation.

Possessory interests renewed, extended, subleased or assigned for any term shall be appraised at their full value as of the date of the renewal, extension, or as of the date the sub-lessee or assignee obtains the right to occupancy or use of the property.

New improvements erected for the purpose of exercising the rights granted by the possessory interest held in land shall be valued as of the date of the completion of construction. When improvements owned by the holder of the possessory interests are in the course of construction for a period that covers more than one lien date, they shall be appraised in accordance with Section 463.

If the current full value of any possessory interest changes for any reason to a value that is less than its base year value appropriately indexed to the lien date for which the roll is being prepared that lower value shall be enrolled.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

Rule No. 468. (Cal. Adm. Code) OIL AND GAS PRODUCING PROPERTIES.

Reference: Article XIII A, Sections 1 and 2, California Constitution.

(a) The right to remove petroleum and natural gas from the earth is a taxable real property interest. Increases in recoverable amounts of such minerals caused by changed physical or economic conditions constitute additions to such a property interest. Reduction in recoverable amounts of minerals caused by production or changes in the expectation of future production capabilities constitute a reduction in the interest. Whether or not physical changes to the system employed in recovering such minerals qualify as new construction shall be determined by reference to Section 463(a).

(b) The market value of an oil and gas mineral property interest is determined by estimating the value of the volumes of proved reserves. Proved reserves are those reserves which geological and engineering information indicate with reasonable certainty to be recoverable in the future, taking into account reasonably projected physical and economic operating conditions. Present and projected economic conditions shall be determined by reference to all economic factors considered by knowledgeable and informed persons engaged in the operation and buying or selling of such properties, e.g., capitalization rates, product prices and operation expenses.

(c) The unique nature of oil and gas property interests requires the application of specialized appraisal techniques designed to satisfy the requirements of Article XIII, Section 1, and Article XIII A, Section 2, of the California Constitution. To this end, the valuation of such properties and other real property associated therewith shall be pursuant to the following principles and procedures:

(1) A base year value (market value) of the property shall be estimated as of lien date 1975 in accordance with Section 460.1 or as of the date a change in ownership occurs subsequent to lien date 1975. Newly constructed improvements and additions in reserves shall be valued as of the lien date of the year for which the roll is being prepared. Improvements removed from the site shall be deducted from taxable value. Base year values shall be determined using factual market data such as prices and expenses ordinarily considered by knowledgeable and informed persons engaged in the operation, buying and selling of oil, gas and other mineral-producing properties and the production therefrom. Once determined, a base year value may be increased no more than two percent per year.

(2) Base year reserve values must be adjusted annually for the value of depleted reserves caused by production or changes in the expectation of future production.

(3) Additions to reserves established in a given year by discovery, construction of improvements, or changes in economic conditions shall be quantified and appraised at market value.

(4) The current year's lien date taxable value of mineral reserves shall be calculated as follows:

(A) The total unit market value and the volume of reserves using current market data shall be estimated.

(B) The current value of taxable reserves is determined by segregating the value of wells, casings, and parts thereof, land (other than mineral rights) and improvements from the property unit value by an allocation based on the value of such properties.

(C) The volume of new reserves shall be determined by subtracting the prior year's reserves, less depletions, from the estimated current total reserves.

(D) The value of removed reserves shall be calculated by multiplying the volume of the reserves removed in the prior year by the weighted average value, for reserves only, per unit of minerals for all prior base years. The prior year's taxable value of the reserves remaining from prior years shall be found by subtracting the value of removed reserves from the prior year's taxable value.

(E) The new reserves are valued by multiplying the new volume by the current market value per unit of the total reserves.

(F) The current taxable value for reserves only is the sum of the value of the prior year's reserves, net of depletions as calculated in (D) above, factored by the appropriate percentage change in the Consumer Price Index (CPI) added to the value of the new reserves, as calculated in (E) above.

Rule No. 468. (Cal. Adm. Code) OIL AND GAS PRODUCING PROPERTIES. (Continued)

(5) Valuation of land (other than mineral reserves) and improvements.

(A) A base year value (market value) of land (including wells, casings and parts thereof) and improvements shall be estimated as of lien date 1975 in accordance with Section 460.1, the date of new construction after 1975, or the date a change of ownership occurs subsequent to lien date 1975.

(B) The value of land (wells, casings and parts thereof) and improvements shall remain at their factored base year value except as provided in (6) below.

(6) Value declines shall be recognized when the market value of the appraisal unit, i.e., land, improvements and reserves, is less than the current taxable value of the same unit.

History: Adopted June 29, 1978, effective July 3, 1978.  
Amended June 28, 1979, effective July 2, 1979.

Rule No. 469. (Cal. Adm. Code) MINES AND QUARRIES.

Reference: Sections 110, 110.1, 110.5, 110.6, Revenue and Taxation Code.

Organic and inorganic minerals and rocks are natural substances of the earth, and are classified as land. The volume of minerals or rocks of acceptable quality that may be removed from the land under existing economic and operating conditions are classified as reserves. The creation of reserves by exploration or by development constitutes an addition to real property and the production of the minerals or rocks from a reserve constitutes a removal of real property.

(a) The full value of a mine or quarry is its base year full value adjusted for the depletion of reserves. The value of the depleted reserves shall be determined annually employing the economic data that applied to the establishment of the reserves in the base year.

(b) The base year of new reserves shall be the year in which either development or mining occurs.

History: Adopted June 29, 1978, effective July 3, 1978.  
Amended September 26, 1978, effective October 2, 1978.

Rule No. 470. (Cal. Adm. Code) ENFORCEABLY RESTRICTED PROPERTY

Reference: Article XIII A, Sections 1 and 2, California Constitution.

Commencing with the 1979 lien date, all property enforceably restricted pursuant to Section 8 of Article XIII of the California Constitution shall be valued for property tax purposes pursuant to Article 1.5, Open Space Land (commencing with Section 421) and Article 1.9, Historical Property (commencing with Section 439) of Chapter 3 of Part 2 of the Revenue and Taxation Code.

When enforceable restrictions are cancelled or terminated by nonrenewal as provided by the Revenue and Taxation Code, the full cash value referred to therein shall be the base year value as modified annually by the inflation rate.

History: Adopted June 29, 1978, effective July 3, 1978.  
Amended September 26, 1978, effective October 2, 1978.  
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

**Rule No. 471. (Cal. Adm. Code) TIMBERLAND.**

Reference: Article XIII A, Sections 1 and 2, California Constitution.

Consistent with the intent of the provisions of Section 3 (j) of Article XIII of the California Constitution and the legislative interpretation thereof, the value for land which has been zoned as timberland pursuant to Section 51110 or 51113 of the Government Code shall be ascertained for the 1979 lien date from the schedule contained in Section 434.5 of the Revenue and Taxation Code and thereafter from the most recent board-adopted timberland site class value schedule.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.



STATE OF CALIFORNIA

## STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA  
 (P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)

(916) 445-4982

May 9, 1979

GEORGE R. REILLY  
 First District, San Francisco  
 ERNEST J. DRONENBURG, JR.  
 Second District, San Diego

WILLIAM M. BENNETT  
 Third District, San Rafael

RICHARD NEVINS  
 Fourth District, Pasadena

KENNETH CORY  
 Controller, Sacramento

DOUGLAS D. BELL  
 Executive Secretary

No. 79/83

TO COUNTY ASSESSORS:

1975 BASE YEAR VALUE DETERMINATION

Senate Bill 17 (Chapter 49, Statutes of 1979) was signed by the Governor May 2, 1979. This bill clarifies the intent of Article XIII A of the California Constitution and sets standards for determining base year values. Its major provisions follow:

- (1) If the value on the 1975-76 roll was determined by appraisal, this value shall become the 1975 base year value.
- (2) It is a rebuttable presumption that an appraisal has been made when the 1975 roll value differed from the 1974 roll value.
- (3) When the value shown on the 1975 roll is not a property's 1975 lien date base year value, and the value on the 1975 roll had not been determined by reappraisal, a new 1975 base year value shall be determined. This determination may be made at any time until June 30, 1980.
- (4) When a new base year value is determined, the assessor shall use "only those factors and indicia of fair market value actually utilized" in appraising comparable properties for the 1975 lien date. The intent is to revalue properties at the same assessment level as those properties reappraised for the 1975 roll.
- (5) When a new 1975 base year value is determined, no escape assessments may be levied for previous years. The newly determined value shall be placed upon the current year's roll only.
- (6) For each lien date after the 1975 lien date, the assessed value is derived by reflecting the percentage change in the cost of living when appropriate, provided such increase shall not exceed 2 percent of the prior year's taxable value.
- (7) The effects of this legislation are retroactive when the 1975 base year value of a property is reduced. Any required reduction in 1978-79 taxes shall be reflected by a reduction in the

May 9, 1979

1979-80 tax installments for the subject property. However, if there has been a change of assesseees between July 1, 1978 and June 30, 1979, a refund of taxes paid shall be prorated between such assesseees in the same proportion as they participated in the payment of such taxes. No refund shall be made of any amount previously collected to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978.

NOTE: There is a question as to how adjustments will be made where appropriate reductions are not identified until after 1979-80 taxes have been levied.

- (8) There will be no reimbursement of costs incurred by local agencies in the administration of this statute.
- (9) This is an urgency statute that takes effect immediately.

If you should have any further questions, please contact John McCoy of this division.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:sk





STATE OF CALIFORNIA

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 KENNETH CORY  
 Controller, Sacramento  
 DOUGLAS D. BELL  
 Executive Secretary  
 No. 79/171

October 5, 1979

TO COUNTY ASSESSORS:

EFFECT OF ASSEMBLY BILL 1488 UPON  
ESCAPE ASSESSMENTS AND REFUNDS

Many of the inquiries we have received concerning Assembly Bill 1488 (Chapter 242, Statutes of 1979) have pertained to Section 43 thereof, which provides as follows:

"Except as otherwise provided in this act, or in Chapter 49 of the Statutes of 1979, no escape assessments shall be levied and no refund shall be made for any years prior to 1979-80 for any increases (or decreases) in value made in 1978-79 as the result of the enactment of Article XIII A of the Constitution, and Chapter 292 and 332 of 1978 or this act, except that any refunds which result from appeals filed for 1978-79 in a timely manner or pursuant to Chapter 24 of the Statutes of 1979 shall be made."

In our view, the purpose and intent of Section 43 is to prohibit escape assessments and refunds for assessment years prior to 1979-80 because of any increases or decreases in value in 1978-79 resulting from the application of Senate Bill 154/Stats. 1978, Chapter 292 and Senate Bill 2212/Stats. 1978, Chapter 332 or increases or decreases in value resulting from the application of Assembly Bill 1488 in 1979-80. Stated differently, if Assembly Bill 1488 requires a 1979 value which varies from that value enrolled in 1978, as a general rule, no escape assessment should be made and no refund should be granted for 1978 because of that change.

There are exceptions to the above rule, several of which are set forth in Section 43 itself. The provision in Section 43 which provides that refunds which result from appeals filed for 1978-79 in a timely manner shall be made, however, is limited to instances in which refunds for 1978 are authorized under applicable law for 1978. In other words, no refunds for 1978 are authorized or should be made just because appeals were filed for 1978-79. Rather, any such refunds are proper only in those instances in which statutes in effect for 1978 authorize them.

October 5, 1979

In addition, Section 42 of Assembly Bill 1488 provides that no creation, termination, assignment or sublease of a leasehold interest on or after March 1, 1975, and no transfer of property subject to a lease on or after March 1, 1975, shall constitute a change in ownership, unless it is defined as a change in ownership under Revenue and Taxation Code Section 61(c). As it pertains to leases then, Assembly Bill 1488 is, for all practical purposes, retroactive, and escape assessments and refunds which result from the application of Assembly Bill 1488 in instances involving leases in 1978 should be made.

Accordingly, a transfer, other than a transfer of property subject to a lease or a leasehold interest, constituting a change in ownership under the law as it existed in 1978 but not constituting a change in ownership under Assembly Bill 1488 should be correctly enrolled for 1979, but a change to the 1978 roll should not be made. Similarly, no refunds should be made where appeals were filed for 1978-79 on the basis that transfers into revocable inter vivos trusts were not changes in ownership. Pursuant to former Revenue and Taxation Code Section 110.6 and former Board Rule No. 462 (f), in effect in 1978, such transfers were changes in ownership.

Conversely, if a transfer of property, for example, an outright sale, occurred in July 1977, that transfer constituted a change of ownership under Senate Bill 154, Senate Bill 2212, and Assembly Bill 1488, and it was just recently reported or discovered, escape assessments should be made for both 1978 and 1979. Likewise, the creation, termination, assignment or sublease of a leasehold interest or a transfer of property subject to a lease constituting a change in ownership under Assembly Bill 1488 but not under Senate Bill 154 and Senate Bill 2212, should result in an escape assessment for 1978. Finally, any transfer, for example, one from a husband to a wife, incorrectly considered as a change in ownership should result in a refund.

Please refer any inquiries or additional questions to John McCoy of this Division, (916) 445-4982.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:sk

# The Proposition 13 Court Calendar \*

*A summary of litigation related to Article XIII-A of the California Constitution, as of June 18, 1979*

## 1. Constitutionality of Proposition 13

- Amador Valley Joint Union High School District, et al., v. state Board of Equalization, et al.; County of Alameda, et al., v. state Board of Equalization, et al.; City and County of San Francisco, et al., v. Joseph E. Tinney, as Tax Assessor, etc., et al.

- *State Supreme Court, San Francisco - Nos. 23849, 23850 and 23855 (22 Cal. 3rd 208)*

- Decision ruled Proposition 13 (Article XIII A) constitutional.

## 2. Constitutionality of Board Rule

- Robert C. Peterson v. Santa Cruz County Assessment Appeals Board, et al.

- *Santa Cruz County Superior Court No. 68277*

- On January 16, 1979, plaintiff filed suit for declaratory relief requesting court to consider constitutionality of the Board of Equalization's Rule 462 (f), which concludes transfers to inter vivos (between living persons) trusts constitute a change of ownership.

On March 2, 1979, the attorney general filed a motion for intervention with the Superior Court requesting he be allowed to intervene in the action on behalf of the appeals board. This request was granted by the court. On April 27, 1979, the board filed a motion to strike the attorney general's authorization for intervention. At a May 10, 1979, hearing, the motion to strike was heard. The judge denied the board's motion from the bench. Board filed its answer

on the substantive issues on May 18, 1979. No further action on this case had taken place as of June 18, 1979.

## 3. Question of what constitutes bonded indebtedness

- Richard Carmen and the Better Government Association v. City of San Gabriel and L.A. County

- *Los Angeles County Superior Court*

- Plaintiff filed suit demanding refund of property taxes transferred to city employees' pension fund. The taxes were levied as bonded indebtedness on homeowner's tax bill. Plaintiff contends such assessments were in violation of Proposition 13 since they come within the exclusion of prior voter-approved indebtedness. No further action on this case had taken place as of June 18, 1979.

## 4. State Assesseees

- Pacific Gas & Electric Company, et al. v. state Board of Equalization

- *San Francisco Superior Court No. 7405678*

- Action seeks declaratory relief and writ of mandamus. Petitioner argues that the board should not have assessed public utilities (78-79 lien year) under California Constitution (Article XIII A) differently than the assessor assesses local property.

On August 2, 1978, the Superior Court denied petitioner's petition for writ of mandate based upon the court's conclusion that Article XIII A does not apply to state assesseees.

Subsequent writ to Supreme Court was denied on August 21, 1978. On February 7, 1979, plaintiff filed an appeal with the First District Court of Appeal. In March 1979, board filed its reply brief. In May, plaintiff filed its reply brief. No court date had been set as of June 18, 1979.

## 5. Determination of what constitutes 1975 market value

- Ted Cleveland, et al. v. County of Butte

- *Butte Superior Court No. 67356*

- Class action seeks declaratory relief, injunction and damages. Plaintiff argues the assessor is without authority under California Constitution (Article XIII A) to reappraise any property that was appraised in 1975 even though value appearing on the 1975 roll was not the property's fair market value. The case was scheduled for hearing on January 26, 1979, on defendant's demurrer. The February 15, 1979, hearing date was postponed. The purpose of the postponement was to allow the plaintiff's attorney to contact all of the clients in the case to see if they were willing to drop the suit. This case was dismissed without prejudice on March 21, 1979.

- *Holmdahl v. Alameda County Assessor and state Board of Equalization*

- *Alameda Superior Court No. H-55317-9*

- Class action suit seeks declaratory relief; plaintiff  
(Continued on Page 2)

(Continued from Page 1)  
 argues county is without legal authority to reappraise property on the 1975 roll to a 1975 market value level. On December 18, 1978, the case was heard. Counties and the board demurrers were overruled and plaintiff's motion for summary judgment taken under submission. On January 15, 1979, the court held the board's rules were constitutional but concluded county had no authority to increase the value of any property that had been appraised for the 1975 lien date. The county is considering an appeal. It had until May 7, 1979, to file the appeal. The county did not appeal. The basis for the county's decision was SB 17, which renders it moot.

• People's Advocate, Inc. et al. v. State of California, et al.

• Sierra County Superior Court No. 3499

• Complaint filed on January 22, 1979, seeks declaratory relief, injunction and damages. Plaintiffs assert authority is lacking under California Constitution (Article XIII A) to reappraise any property above the value appearing in the 1975 tax bill even though the 1975 value was not the fair market value and notwithstanding the fact the property had not been reappraised for the 1975-76 tax year. On February 22, 1979, the board filed its demurrer and answer to the complaint.

• Louis C. Renand, et al. v. State of California, et al.

• Contra Costa Superior Court

• Complaint seeks declaratory relief, injunctive relief and petition for writ of mandate. Plaintiffs assert authority is lacking under California Constitution (Article XIII A) to reappraise any property that was appraised in 1975 even

though value appearing on the 1975 roll was not the property's fair market value. On January 5, 1979, the case was heard. Defendant's motion to strike attorney general's answer was granted. Defendant, county and board demurrers were sustained with 60 days given to plaintiff to amend his complaint.

On March 4, 1979, plaintiffs amended first complaint was filed with the court. On April 6, 1979, the defendants filed points and authorities on the subject of whether or not the attorney general should be allowed to intervene in this matter. Decision was pending as of June 18, 1979.

• Lynn D. Smith, et al. v. County of Monterey, et al.

• Superior Court No. 74599

• Class action seeks declaratory relief, injunction and damages. Plaintiff argues the assessor is without authority under California Constitution (Article XIII A) to reappraise any property that was appraised in 1975 even though value appearing on the 1975 roll was not the property's fair market value. Parties were awaiting outcome of Holmdahl and Renand suits.

#### 6. Determination of proper tax to be applied to 1978-79 unsecured roll

• Board of Supervisors v. Lonergan, et al.

• San Diego Superior Court No. 421865

• Plaintiff filed suit requesting the court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property. On September 13, 1978, Superior Court concluded that the 1% rate limitation is equally applicable to personal property. Appeal was filed on November 9, 1978,

in the Fourth District Court, Civil No. 18580. As of June 18, 1979, no hearing date had been set for oral argument in the appeal.

• Boroughs v. Contra Costa County

• Contra Costa Superior Court

• Plaintiff filed suit requesting the court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property. Case was being held in abeyance awaiting outcome of Lonergan case in San Diego.

• Cox, Cummings & Lamphere v. Edward W. Leal, et al.

• Contra Costa Superior Court No. 192651

• Recently plaintiff filed suit requesting the court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property.

• Darr, et al. v. Alvord, et al.

• Los Angeles Superior Court

• Class action claim seeks refund on the 1% rate. On September 1, 1978, the court refused to issue an injunction to place in an impound account any taxes collected on the unsecured roll above the 1%. Court in essence concluded there was an adequate remedy at law; payment of tax and filing a claim for refund. Hearing on claim for refund was set for January 17, 1979.

Court requested additional briefs to be filed by February 9, 1979.

On February 16, and February 17, 1979, oral arguments were submitted. No decision; class being certified. Motion for

(Continued on Page 3)

(Continued from Page 2)  
summary judgment was made on March 2, 1979. On May 14, 1979, judge ruled the case did not constitute a proper class action. Case is now limited to one taxpayer suit, that of Mr. Darr.

• Darr v. Cory, et al.

• *Sacramento Superior Court*

• A class action claim was filed calling for a writ to stop payments to any jurisdiction which uses last year's tax rate instead of the 1% on the unsecured roll. The basis for the suit is that state funds are not to be distributed if jurisdictions are not complying fully with Article XIII A (Sacramento No. 276211). In November, Superior court denied the writ without leave to amend.

• Hansen Manufacturing Company v. Los Angeles County

• *Los Angeles Superior Court No. 160985*

• Recently plaintiff filed suit requesting the court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property. Was set for hearing on March 2, 1979. Cross motion for summary judgment had been filed and set for hearing on March 2, 1979. On April 4, 1979, judgment was entered against Los Angeles County. The court concluded that the 1% rate limitation under Article XIII A is applicable to personal property. The county appealed. No court date had been set as of June 18, 1979.

• Jarvis & Hill v. Pope, et al.

• *Los Angeles Superior Court*

• On September 1, 1978, plaintiff filed writ of mandate requesting 1% rate be applied to personal property and that the 2% inflationary rate not be applied until 1979-80 roll. Action was

dismissed without leave to amend

• J.C. Penney v. the Board of Equalization

• *Los Angeles Superior Court*

• Writ of mandate seeks court action to force the Board of Equalization to bring action against counties not using 1% rate for personal property. Presumably, case can be considered moot because no further action has been taken and because of decision in case of Younger v. Alvord.

• Evelle J. Younger, et al. v. H.B. Alvord, et al.

• *State Supreme Court, Los Angeles, No. 30996 (7-28-78; 23 Counties v. Younger, Cory, state Board of Equalization)*

• Plaintiff filed suit requesting court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property. On August 16, 1978, the court refused to issue the writ of mandate requiring the counties to apply the 1% rate to personal property. In essence the court concluded that there was an adequate remedy at law; payment of tax and filing of a claim for refund.

• Darr & Ackert v. Supervisors of Marin County (Coffrini)

• In November 1978, plaintiff filed suit requesting the court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property. No further action had been taken as of June 18, 1979.

• Darr, et al. v. Tax Collector, Santa Barbara County

• In November 1978, plaintiff filed suit requesting the court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property. No further action had been taken as of June 18, 1979.

• Darr, et al. v. Tax Collector, Orange County

• In November 1978, plaintiff filed suit requesting the court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property. No further action had been taken as of June 18, 1979.

• American Bakeries, et al. v. Alameda, Contra Costa, San Francisco, Los Angeles, Marin, Fresno, Orange, Riverside, Santa Barbara, Santa Cruz and Butte Counties

• On January 26, 1979, plaintiff filed suit requesting the court to declare that the 1% rate limitation under Article XIII A is equally applicable to personal property. However, in contacting the various counties, there was no indication the complaint had been served on any of the defendants. As of June 18, 1979, no further action had been taken.

• State Board of Equalization v. Board of Supervisors of the County of San Diego, San Diego County Assessment Appeals Board, and Hearing Officers, et al.

• *San Diego Superior Court No. 433845*

• On April 26, 1979, the state Board of Equalization filed a request for a temporary stay order to prevent defendants from applying Proposition 8 (November 78) as it relates to all declines in value resulting from depreciation, down zonings and the like to the 1978-79 roll. On May 4, 1979, the court denied the request for a temporary restraining order and set May 11, 1979, for the hearing date. On request of defendants, hearing was reset for May 23, 1979. On May 23, 1979, judge ruled from the bench that Proposition 8 was not retroactive but nevertheless under Proposition 13 depreciation and other loss of value to property was allowable for the tax year 1978-79 and thereafter. Board is considering appeal of this case.

ADDENDUM

- Change in Ownership Values: 3/1/75 to 3/1/78

Roberta L. Schoderbek, et al. v. Dwight L. Mathiesen, et al.,

Santa Clara Superior Court No. 416764

1-4-79 Plaintiff filed class action suit contending that any property purchased after March 1, 1975, could not be assessed at its fair market value as of the date of transfer but instead was required to be assessed at the value appearing on the roll as of the preceding lien date. No court date set as of 6-18-79.

- Application of 2% Inflationary Factor

Robert E. Barrett, Robert F. Coleman, Eva G. Coleman Concerned Citizens For Implementation of 13-A, an Unincorporated Association v. County of Santa Clara, Alfred C. Carlson, California State Board of Equalization, et al.

Santa Clara County Superior Court, No. 428754

Plf. filed 6/22/79. This case raises the question of whether the 2% inflationary factor is to be applied commencing March 1, 1975 or July 1, 1978.

Fred W. Armstrong v. County of San Mateo, City of Menlo Park, California State Board of Equalization, et al.

San Mateo County Superior Court, No. 223408

Plf. filed 6/26/79. This case raises the question of whether the 2% inflationary factor is to be applied commencing March 1, 1975 or July 1, 1978.

Source: State Board of Equalization

SUMMARY OF AMADOR VALLEY CASE

AND EXERPTS FROM OPINION ON "EQUAL PROTECTION" ISSUE

AMADOR VALLEY JOINT UNION HIGH SCH. DIST. v.  
STATE BD. OF EQUALIZATION

22 Cal.3d 208: — Cal. Rptr. — P.2d —

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[S.F. No. 23849. Sept. 22, 1978.]

AMADOR VALLEY JOINT UNION HIGH SCHOOL DISTRICT  
et al., Petitioners, v.  
STATE BOARD OF EQUALIZATION et al., Respondents.

[S.F. No. 23850. Sept. 22, 1978.]

COUNTY OF ALAMEDA et al., Petitioners, v.  
STATE BOARD OF EQUALIZATION et al., Respondents.

[S.F. No. 23855. Sept. 22, 1978.]

CITY AND COUNTY OF SAN FRANCISCO et al., Petitioners, v.  
JOSEPH E. TINNEY, as Tax Assessor, etc., et al., Respondents.

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**SUMMARY**

Various governmental agencies and concerned citizens, invoking the original jurisdiction of the Supreme Court to resolve issues of great public importance, challenged, on multiple constitutional grounds, the validity of Cal. Const., art. XIII A, on its adoption by the electorate in 1978 as an initiative measure. Petitioners contended that the enactment, which changed the previous system of real property taxation and tax procedure by imposing important limitations upon the assessment and taxing powers of state and local governments, constituted a revision of the Constitution and was therefore not adoptable through the initiative process (Cal. Const., art. XVIII). Petitioners also asserted that the single-subject requirement (Cal. Const., art. II, § 8, subd. (d)) and the title and summary-of-purpose requirements (Cal. Const., art. II, § 10; Elec. Code, §§ 3502, 3503, 3531) for initiative measures had been violated, and that the enactment violated the federal equal protection clause, impaired the constitutional right to travel, would inevitably result in impairment of contracts (U.S. Const., art. I, § 10, cl. 1) such as pension and health plan benefits, labor and other municipal contracts, and redevelopment agency bonds, and was in any event void for vagueness.

The Supreme Court denied the respective petitions, holding that the enactment survived each of the substantial challenges. The enactment, the court held, was a constitutional "amendment," not a "revision," and was therefore adoptable through the initiative process; and because the several elements of the measure were reasonably germane to, and functionally related in furtherance of, the underlying purpose of effective real property tax relief, the measure did not violate the single-subject requirement. The title and summary of purpose of the measure, though imprecise in certain particulars, substantially complied with the law, especially in view of their subsequent correction in all but two counties and in the voters' pamphlet. The federal equal protection clause, the court held, was not violated by the provision requiring property acquired prior to 1975 to be assessed and taxed at its full cash value as shown on

the 1975-1976 tax bill, and property acquired thereafter to be assessed and taxed according to its appraised value at the time of acquisition; there was a rational basis for the provision, namely, the theory that the annual taxes that a property owner must pay should bear some rational relationship to the original cost of the property, predicated on the owner's free and voluntary act of purchase, rather than relate to an unforeseen, perhaps unduly inflated, current value. In any event, there is no legal requirement that property of equal current value must be taxed equally. Nor was the federal equal protection clause violated by the provision requiring that any "special taxes" imposed by a city, county, or special district must be approved by a two-thirds vote of its qualified electors; because persons who vote in favor of tax measures may not be deemed to represent a definite, identifiable class, equal protection principles do not forbid "debasement" of their vote, or "favoring" the negative votes, by requiring a two-thirds approval of such measures. With respect to the claim of impairment of the constitutional right to travel resulting from the change from the current value system to the acquisition value method, it could equally be argued that under the former system prospective purchasers of real property might well have been deterred from purchasing (thereby impairing their right to travel) by reason of the unpredictable nature of future property tax liability resulting from unlimited inflationary pressures. The challenge based on the impairment of municipal contracts, the court held, was premature, even assuming petitioners, without producing evidence of any present, specific, and substantial impairments affecting them, had the standing to assert the claim; the enactment on its face neither directly repudiated any express covenant with municipal obligees nor immediately impaired any contract right. Finally, the court held that the enactment was not so vague in its essential terms as to render it void and inoperable. As with other provisions of the Constitution, it would necessarily require judicial, legislative, and administrative construction, and it was already being implemented by extensive legislation and regulations that, if judicially challenged, could be dealt with on a case-by-case basis. (Opinion by Richardson, J., with Tobriner, Mosk, Clark, Manuel, and Newman, JJ., concurring. Separate concurring and dissenting opinion by Bird, C. J.)

### 3. Equal Protection of the Laws

... By reason of section 2, subdivision (a), of the article, except for property acquired prior to 1975, henceforth all real property will be assessed and taxed at its value *at date of acquisition* rather than at current value (subject, of course, to the 2 percent maximum annual inflationary increase provided for in subdivision (b)). This "acquisition value" approach to taxation finds reasonable support in a theory that the annual taxes which a property owner must pay should bear some rational relationship to the original cost of the property, rather than relate to an unforeseen, perhaps unduly inflated, current value. Not only does an acquisition value system enable each property owner to estimate with some assurance his future tax liability, but also the system may operate on a fairer basis than a current value approach. For example, a taxpayer who acquired his property for \$40,000 in 1975 henceforth will be assessed and taxed on the basis of that cost (assuming it represented the then fair market value). This result is fair and equitable in that his future taxes may be said reasonably to reflect the price he was originally willing and able to pay for his property, rather than an inflated value fixed, after acquisition, in part on the basis of sales to third parties over which sales he can exercise no control. On the other hand, a person who paid \$80,000 for similar property in 1977 is henceforth assessed and taxed at a higher level which reflects, again, the price he was willing and able to pay for that property. Seen in this light, and contrary to petitioners' assumption, section 2 does not unduly discriminate against persons who acquired their property after 1975, for those persons are assessed and taxed in precisely the same manner as those who purchased in 1975, namely, on an acquisition value basis predicated on the owner's free and voluntary acts of purchase. This is an arguably reasonable basis for assessment. (We leave open for future resolution questions regarding the proper application of article XIII A to involuntary changes in ownership or new construction.)

In addition, the fact that two taxpayers may pay different taxes on substantially identical property is not wholly novel to our general taxation scheme. For example, the computation of a sales tax on two identical items of personalty may vary substantially, depending upon the exact sales price and the availability of a discount. Article XIII A introduces a roughly comparable tax system with respect to real property, whereby the taxes one pays are closely related to the acquisition value of the property.

In converting from a current value method to an acquisition value system, the framers of article XIII A chose not to "roll back" assessments any earlier than the 1975-1976 fiscal year. For assessment purposes, persons who acquired property prior to 1975 are deemed to have purchased it during 1975. These persons, however, cannot complain of any unfair tax treatment in view of the substantial tax advantage they will reap from a return of their assessments from current to 1975-1976 valuation levels. Indeed, the adoption of a uniform acquisition value system without some "cut off" date reasonably might have been considered both administratively unfeasible and incapable of producing adequate tax revenues. The selection of the 1975-1976 fiscal year as a base year, although seemingly arbitrary, may be considered as comparable to utilization of a "grandfather" clause wherein a particular year is chosen as the effective date of new legislation, in order to prevent inequitable results or to promote some other legitimate purpose. (See *Harris v. Alcoholic Bev. etc. Appeals Bd.* (1964) 61 Cal.2d 305, 309-310 [38 Cal.Rptr. 409, 392 P.2d 1].) Similar provisions are routinely upheld by the courts. (See, e.g., *New Orleans v. Dukes* (1976) 427 U.S. 297, 305-306 [49 L.Ed.2d 511, 517-519, 96 S.Ct. 2513]; *In re Norwalk Call* (1964) 62 Cal.2d 185, 188 [41 Cal.Rptr. 666, 397 P.2d 426].) . . .