
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2023 - 2024 Regular

Bill No: AB 556
Author: Gallagher
Version: 4/27/23
Consultant: Grinnell

Hearing Date: 6/21/23
Tax Levy: No
Fiscal: Yes

PROPERTY TAXATION: TRANSFER OF BASE YEAR VALUE: DISASTER RELIEF

Extends the deadline by three years for taxpayers affected by the Camp Fire to transfer base year values to replacement property.

Background

Article XIII of the California Constitution provides that all property is taxable unless explicitly exempted by the Constitution or federal law. Article XIII A of the Constitution limits the maximum amount of any ad valorem tax on real property at 1% of full cash value, and directs assessors to set assessed values at 1975 market value levels and only reappraise property thereafter if there is new construct or a change in ownership (Proposition 13, 1978).

Base year value transfers. State law implementing Proposition 13 generally sets a property's value as its sales price when purchased or, when there is no sales price, at its fair market value when ownership changes (base year value). Thereafter, the law requires an annual inflation adjustment to that value that cannot exceed 2% (factored base year value).

Base year value transfers allow a taxpayer to continue to pay property taxes at the factored base year value of their previous home (or other property types where the law allows) and not on the value of their newly purchased or constructed home, often resulting in tax savings. For example, a taxpayer who purchased their residence for \$100,000 in 1975 now has a base year value under Proposition 13 that cannot exceed \$259,000 under the 2% cap in annual inflationary growth, regardless of its market value. If that taxpayer sold their residence for \$500,000 and purchased a new one for the same amount, a base year value transfer allows them to continue to pay property taxes based on the \$259,000 value, not \$500,000, which at the 1% rate results in \$2,410 in annual tax savings ($\$500,000 - \$259,000 = \$241,000 \times 1\% = \$2,410$).

In June 1986, voters enacted Proposition 50 to allow a taxpayer to transfer their base year value when their property is damaged by a major misfortune or calamity and located in an area the Governor declared to be in a state of disaster. Revenue and Taxation Code (R&T) §69 implements Proposition 50 to allow the transfer when:

- The damaged property sustains physical damages amounting to more than 50% of current market value immediately prior to the disaster;
- The replacement property is located in the same county as the damaged property and is acquired or newly constructed within five years after the disaster;

- The replacement property is comparable to the damaged property in size, utility, and function. For example, a residential property can be replacement property for a damaged residence, but not for a commercial, agricultural, or industrial property;
- The market value of the replacement property does not exceed 120% of the fair market value of the replaced property in its pre-damaged condition. Property owners can still receive the disaster relief in cases where the value of the replacement property exceeds the 120% limitation, but any amount over this threshold is assessed at full market value and added to the transferred base year value; and,
- The buyer of the replacement property was the owner of the damaged property at the time of damage.

In November 1993, voters additionally allowed taxpayers to transfer base year values to other counties when their property is damaged by a major misfortune or calamity and located in an area declared to be in a state of disaster by the Governor (Proposition 171). However, Proposition 171 only allowed transfers to other counties for a taxpayer's principal place of residence, and solely when the board of supervisors in the county where the replacement property is located has adopted an ordinance making this benefit available. As of January 2020, 13 counties have such an ordinance: Contra Costa, Glenn, Los Angeles, Modoc, Orange, San Diego, San Francisco, Santa Clara, Solano, Sonoma, Sutter, Ventura, and Yuba. Additionally, unlike Proposition 50, Proposition 171 explicitly stated replacement homes must be purchased or newly constructed within three years.

The Camp Fire. The Camp Fire started on Thursday, November 8, 2018, in Northern California's Butte County. Ignited by a faulty electric transmission line, an east wind drove the fire downhill through developed areas where it spread rapidly with high intensity through the rural community of Concow, culminating in an urban firestorm in the foothill Town of Paradise. The fire caused at least 85 fatalities, and injured 12 civilians and 5 firefighters. It covered an area of 153,336 acres, and destroyed more than 18,000 structures, with most of the destruction occurring within the first four hours. Paradise and Concow were almost completely destroyed, each losing about 95% of their structures.

The five-year deadline for taxpayers affected by the Camp Fire to transfer base year values to replacement property will occur later this year. Given difficulties identifying replacement property and construction delays and expenses, the author wants to extend the deadline for three years.

Proposed Law

Assembly Bill 556 extends the five-year deadline in R&T §69 by three years if the qualified property was substantially damaged or destroyed on or after November 1, 2018, but on or before November 20, 2018. The measure limits its provisions to property that was substantially damaged or destroyed by the 2018 Camp Fire disaster, as proclaimed by the Governor. The bill applies its provisions to the determination of base year values for the 2018–19 fiscal year and fiscal years thereafter.

AB 556 also makes a legislative finding and declaration stating its provisions do not constitute a gift of public funds, and contains an urgency clause.

State Revenue Impact

According to the Board of Equalization, AB 556's estimated annual revenue loss is \$26.6 million; however, if the Legislature enacts AB 1500 (Irwin), discussed below, this estimate would be lower as some affected taxpayers may choose to reconstruct their damaged property.

Comments

1. **Purpose of the bill.** According to the author, "Under Proposition 13, when a property changes ownership or new construction occurs it is re-assessed at its current market value. At this time, a new "base year value" is established and the assessed value is limited to an increase of no greater than 2% each year. Current law also provides exemptions to allow disaster victims to transfer the base year value of a damaged or destroyed property to a comparable replacement property. This ensures that disaster victims, especially those who have been in their homes a long time, are not unexpectedly burdened with an unaffordable property tax bill through no fault of their own. Current law requires disaster victims to acquire or construct the new property within five years after the disaster to avoid reassessment at full-market value. Unfortunately, the circumstances surrounding recent mega-fires have made rebuilding within the required 5-year timeline nearly impossible. For example, in the case of the Camp Fire (November 2018), hazardous waste cleanup and debris removal took years. Moreover, many victims did not receive their settlement payments until last year, with thousands still waiting on payments. This puts many victims at risk of facing a sudden and significant tax increase as the 5-year anniversary of the fire approaches. AB 556 seeks to provide Camp Fire victims with enough time to take advantage of property tax relief provided in current law. This relief is particularly important for communities such as Paradise, which has a significant working-class population, including seniors and people with disabilities, who are especially vulnerable to sudden financial shocks."

2. **Revenue loss.** AB 556 extends the ability of taxpayers whose property was damaged or destroyed to transfer their base year values to replacement properties, which would likely reduce valuations for property tax purposes. As a result, the state, Butte County, as well as cities or special districts in Butte County will have to reduce spending or increase taxes to compensate for any foregone revenue resulting from the measure.

3. **Flexible deadline.** Over time, the Legislature has extended the deadline for taxpayers to purchase or newly construct a replacement property to apply a base year value transfer under Proposition 50, often in response to wildfires. The Legislature initially set it at two years (SB 2535, Ellis, 1986), and then extended it to three years after the Oakland Hills fire (AB 1824, Lee, 1993). In 2006, the Legislature further extended the deadline from three to five years for disasters occurring on or after July 1, 2003 (AB 1890, Mountjoy). Three years later, the Legislature allowed the San Diego County Board of Supervisors to extend the deadline by two additional years for property substantially damaged or destroyed by the 2003 Cedar Fire (AB 157, Anderson). In 2021, the Legislature extended the general deadline from five to seven years to account for both California's recent wildfires, as well as the economic distress caused by the COVID-19 pandemic (SB 303, Borgeas). However, that measure applied only to either disasters or base year value transfers that occurred between March 4, 2020, and March 4, 2022, so it would not benefit taxpayers affected by the Camp Fire.

4. **Proposition 19.** In 2020, the Legislature placed on the ballot, and voters approved as Proposition 19, the Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act (ACA 11, Mullin). The Act created a new section of the

California Constitution to allow base year value transfers for disabled taxpayers and those over the age of 55, as well as a victim of a wildfire or other natural disaster. Proposition 19 allowed taxpayers to transfer base year values to properties of greater value and across county lines regardless of whether the accepting county enacted an ordinance, so long as the replacement property is purchased or constructed within two years of the date the original property is sold, or damaged or destroyed by a disaster. However, Proposition 19 only gives disaster victims two years to purchase or construct a replacement residence, whereas current law allows taxpayers five years. While initial disagreement existed regarding whether Proposition 19 also “impliedly” repealed other base year value transfer laws, including the one modified by AB 556, the Legislature clarified as part of an omnibus Proposition 19 implementation measure (SB 539, Hertzberg, 2021) that Proposition 19 did not repeal other statutes allowing taxpayers to transfer base year values as a result of a natural disaster.

5. Related legislation. AB 556 extends the time period for base year value transfers, where taxpayers transfer the assessed value from their damaged or destroyed property to a newly acquired or constructed replacement property. AB 1500 (Irwin) allows victims of both the Camp Fire and the Woolsey Fire that affected Los Angeles and Ventura Counties in 2018 an additional three years to apply the assessed value of their damaged or destroyed property to reconstructed property on the same site. The measure is currently pending in the Senate Governance and Finance Committee.

6. Gift of public funds. Section Six of Article XVI of the California Constitution prohibits the Legislature from making a gift of public funds. By applying its provisions retroactively to the 2018-19 fiscal year, AB 556 could be construed to constitute a gift of public funds; however, the bill includes provisions stating legislative intent that the bill does not because it is necessary to ensure that owners of real property that has been substantially damaged or destroyed by the deadliest and most destructive wildfire in California history are provided the full and fair opportunity to transfer the property tax base year value of that property to a comparable replacement property.

7. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Since AB 556 extends time periods for disaster-affected taxpayers to claim base year value transfers, Legislative Counsel says it imposes a new state mandate. The measure provides the state shall not reimburse local agencies for property tax revenue losses, instead stating that should the Commission on State Mandates determine the bill imposes a reimbursable mandate, reimbursement must be made pursuant to existing statutory provisions.

8. Urgency. As an urgency statute, AB 556 must be approved by a two-thirds vote of each house of the Legislature. Regular legislation takes effect on the January 1 following its passage, but urgency bills take effect as soon as they are passed, signed, and chaptered

Assembly Actions

Assembly Revenue and Taxation Committee:	11-0
Assembly Appropriations Committee:	15-0
Assembly Floor:	80-0

Support and Opposition (6/16/23)

Support: Town of Paradise (Sponsor)
California Assessors' Association
California Association of Realtors
California Builders Alliance
California State Board of Equalization
Howard Jarvis Taxpayers Association (HJTA)
Sacramento Regional Builders Exchange
Valley Contractors Exchange

Opposition: None submitted.

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