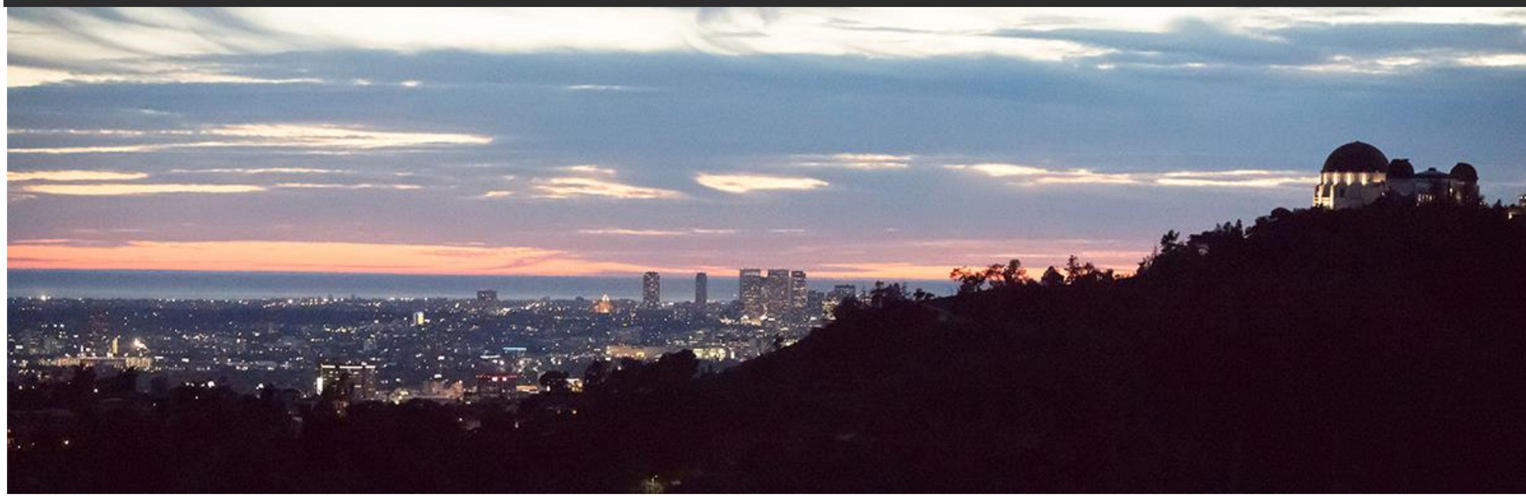
Alert | State & Local Tax (SALT)



January 2025

Property Tax Relief for Southern California Property Owners Affected by the Recent Palisades, Eaton, and Other Fires and Windstorm Conditions

Recent fires in Southern California, including the Palisades, Eaton, and Sunset fires, have collectively burned tens of thousands of acres and devastated communities across the Greater Los Angeles area. More than 12,000 structures have been destroyed or damaged, including homes and businesses, and initial estimates have placed this emergency among the most destructive in California history. On Jan. 7, 2025, Governor Newsom proclaimed a state of emergency in Los Angeles and Ventura Counties due to the Palisades Fire and windstorm conditions.

Below we highlight property tax relief measures that may be available to property owners whose properties have been damaged or destroyed by these recent events. As discussed further below, for most affected property owners, property tax relief options include a temporary reduction in the damaged or destroyed property's assessed value, deferral of property taxes, and/or one or more options to transfer the damaged or destroyed property's base year value to replacement property. A recently issued executive order also provides for a limited suspension on the imposition of penalties, costs, or interest for the failure to pay property taxes or file a personal property tax statement. Each of these relief measures, and the related eligibility and filing requirements, are discussed in more detail below. Additionally, in certain situations, additional relief options may be available, depending on the specific facts in each case. Property owners should seek the advice of their professional advisors to understand how the options may apply to their particular circumstances.

Misfortune or Calamity Reassessment & Property Tax Payment Deferral

Property damaged or destroyed due to a misfortune or calamity, such as the recent fires, may be eligible for property tax relief in the form of a reduction in the property's assessed value while the property is in the damaged condition. This relief is available for taxable property, including real property, business equipment and fixtures, aircraft, boats, and manufactured homes that are subject to local property taxation by the county assessor. It is not available to property that is not assessable, such as state licensed manufactured homes or household furnishings.

Property Eligible for Misfortune/Calamity Reassessment Relief

To be eligible for relief, damage or destruction to the property must be a result of a misfortune or calamity, such as the recent fires, without fault of the assessee. Additionally, the loss must be at least $10,000 of current fair market value.

If the property is located in an area or region subsequently proclaimed by the governor to be in a state of disaster due to a major misfortune or calamity, and the property was damaged or destroyed by the major misfortune or calamity that caused the governor's proclamation, "damage" includes a diminution in the value of the property as a result of restricted access to the property where that restricted access was caused by the major misfortune or calamity. Further, in the case of a possessory interest in land owned by the state or federal government, damage may include the suspension or restriction of the permit or other right to enter upon the land resulting from the misfortune or calamity.

Claim Form Filing Requirement

To qualify for relief, a timely claim form must be filed with the county assessor within 12 months of the misfortune or calamity. The claim form for Los Angeles County is identified as ADS-820 (Reassessment of Property Damaged or Destroyed by Misfortune or Calamity) and is available for download on the website of the Los Angeles County Assessor or by clicking here. Other counties each have their own form, which too may be downloaded from the appropriate county assessor's website.

Reassessment Relief

If relief is granted, the county assessor will reassess the property downward to reflect its damaged condition and notify the applicant in writing of the amount of the proposed reassessment. The proposed reassessment may be appealed to the County Assessment Appeals Board within six months of the date of mailing the notice.

The reduced assessed value will apply from the month in which the damage occurred and will remain in effect until the property is fully repaired or rebuilt. However, if the property is partially repaired or rebuilt as of any Jan. 1 lien date, the taxable value will be adjusted upward to reflect the repairs completed as of that lien date. If the property is timely rebuilt, the property's prior assessed value (i.e., the existing factored base year value)[1] will be restored as long as the property is rebuilt in a like or similar manner. As a rule of thumb, new square footage or extras, such as additional bathrooms, will be added to the existing factored base year value at its fair market value.

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[1] Factored base year value is the property's base year value that was established as of the date of change of ownership or date of completion of new construction, adjusted by an annual inflation factor limited to 2%, commonly referred to as its Proposition 13 value. The factored base year value sets the upper limit for a property's assessment.

Further, certain special rules may allow the reconstructed property to retain its existing factored base year even with some new square footage or extras if the property was substantially damaged or destroyed by a disaster, as declared by the governor (damage of more than 50% of the improvement's fair market value immediately prior to the disaster). Among other requirements, these special rules require that the replacement property be reconstructed on the same site within five years after the disaster.

Additional Relief – Property Tax Payment Deferral

In addition, if property has been substantially damaged or destroyed in a governor-proclaimed disaster and the above-discussed claim for reassessment has been filed or granted, a claim to defer the next installment of property taxes that occurs immediately after the property was damaged may also be filed with the county assessor. The deferment postpones the next regular property tax installment payment until the county assessor reassesses the property due to the damage and a corrected property tax bill is received. The corrected tax bill will identify the payment due date.

To be eligible for deferral, damage on property that has received or is eligible for the homeowners' exemption must be at least $10,000 or 10% of its fair market value, whichever is lower. Damage for all other property types must be at least 20% of its pre-damaged fair market value. However, tax deferral is not available where property taxes are paid through an impound account.

To qualify for deferral, a timely tax deferral claim form must be filed with the county assessor before the delinquency date of the property tax installment due following damage to the property. In cases where damage occurred in January 2025, the claim form is due by April 10, 2025. The claim form for Los Angeles County is identified as ADS-820.3 (Property Tax Installment Deferral Application - Property Damaged or Destroyed by Misfortune or Calamity) and is available for download on the website of the Los Angeles County Assessor or by clicking here. Other counties each have their own form, which too may be downloaded from the appropriate county assessor's website.

Executive Order N-10-25 – Limited Suspension on the Imposition of Penalties, Costs, or Interest for the Failure to Pay Property Taxes or File a Personal Property Tax Statement

On Jan. 16, 2025, Gov. Newsom issued Executive Order N-10-25, which provides that effective immediately, certain sections of the Revenue and Taxation Code that require or authorize a tax collector to impose penalties, costs, or interest for the failure to pay property taxes on property on the secured or unsecured roll, or to pay a supplemental bill, are suspended until April 10, 2026, and a tax collector must cancel such penalties, costs, and interest due during calendar year 2025, on property located in the areas encompassed by U.S. ZIP codes 90019, 90041, 90049, 90066, 90265, 90272, 90290, 90402, 91001, 91040, 91104, 91106, 91107, 93535, or 93536. This suspension will not apply to any taxes on the property that were delinquent as of Jan. 6, 2025. The suspension extends to taxes owed under certain installment plans if, on or before Jan. 7, 2025, all payments required by the plan were made. The suspension, however, does not apply to any property for which taxes are paid through an impound account.

The Executive Order also states that with respect to properties located within the same U.S. ZIP codes enumerated above, the provisions of the Revenue and Taxation Code that impose a penalty on a taxpayer for failing to file a personal property tax statement are suspended until April 1, 2026, to the extent those provisions impose a penalty on a taxpayer for failing to file a property statement before April 1, 2026, such that no penalty will be imposed upon a taxpayer if the taxpayer files a personal property tax statement as required by Revenue and Taxation Code section 441(a) on or before April 1, 2026.

Base Year Value Transfer to Replacement Property

Property damaged or destroyed by a disaster, as declared by the governor, may also qualify for a transfer of the damaged property's base year value to another property within the same county or another county in California, and prevent the replacement property from being reassessed at its fair market value. Three different types of base year value transfers are available, each with different eligibility requirements. Each is discussed further below.

Same County Base Year Value Transfers for Any Property Type

Pursuant to Section 69 of the Revenue and Taxation Code, owners of taxable real property or manufactured homes substantially damaged or destroyed in a governor-proclaimed disaster may transfer the base year value of the damaged property to a comparable replacement property in the same county.

To qualify, the property must be damaged or destroyed in a governor-proclaimed disaster, the physical damage must amount to more than 50% of the damaged property's fair market value immediately prior to the disaster, and the replacement property must be acquired or newly constructed in the same county within five years of the disaster. If the fair market value of the comparable replacement property does not exceed 120% of the fair market value of the damaged property, then the factored base year value of the damaged property may be transferred to the comparable replacement property as its replacement base year value. If the 120% threshold is exceeded, then the replacement property's base year value will be the sum of the factored base year value of the damaged property and the amount of its fair market value over the 120% threshold.

This base year value transfer is available for any type of real property, not just a principal residence, and the damaged and replacement properties must be the same property type and of comparable size, utility, and function. Further, eligibility to transfer the damaged property's base year value to replacement property does not require that the damaged property be sold. However, once the factored base year value is transferred to the replacement property, the damaged property will be reassessed at the lower of its fair market value or the existing factored base year value. If, after the factored base year value is transferred, reconstruction occurs on the damaged property, the new construction will be assessed at fair market value.

To claim the Section 69 base year value transfer, a form BOE-65-P (Claim for Intracounty Transfer of Base Year Value to Replacement Property for Property Damaged or Destroyed in a Governor-Declared Disaster) must be filed with the county assessor's office where the replacement property is located.

Intercounty Base Year Value Transfers for Principal Residences

There are two types of base year value transfers that allow transfer of the base year value of a principal residence damaged or destroyed in a disaster to a replacement principal residence in another county. Each is discussed further below.

Section 69.3 Intercounty Base Year Value Transfers

Pursuant to Revenue and Taxation Code section 69.3, a homeowner whose principal place of residence is substantially damaged or destroyed in a governor-proclaimed disaster is allowed to transfer the property's factored base year value to a comparable replacement principal residence acquired or newly constructed in another county, if that county has adopted an ordinance accepting such base year value transfers. For this purpose, the following 14 counties accept base year value transfers from other counties: Contra Costa, Glenn, Los Angeles, Modoc, Orange, San Diego, San Francisco, Santa Clara, Solano, Sonoma, Sutter, Ventura, Yolo, and Yuba.

To qualify, the property must be damaged or destroyed in a governor-proclaimed disaster, the physical damage must amount to more than 50% of the damaged property's fair market value immediately before the disaster, and the replacement property must be acquired or newly constructed within three years of the date of damage or destruction. The fair market value of the comparable replacement property must be of "equal or lesser value" to the fair market value of the damaged property, meaning it must not exceed a specified percentage of the fair market value of the damaged property just prior to its damage, depending upon when the replacement property is acquired or newly constructed—105% if within the first year following the date of damage or destruction, 110% if within the second year, and 115% if within the third year.

Further, eligibility to transfer the damaged property's factored base year value to replacement property does not require that the damaged property be sold. However, once the factored base year value is transferred to replacement property, the damaged property will be reassessed at the lower of its fair market value or the existing factored base year value. If, after the factored base year value is transferred, reconstruction occurs on the damaged property, the new construction will be assessed at fair market value.

To claim the Section 69.3 base year value transfer, a form BOE-65-PT (Claim for Intercounty Transfer of Base Year Value to Replacement Property from Principal Residence Damaged or Destroyed in a Governor-Declared Disaster) must be timely filed with the office of the county assessor where the replacement property is located within three years after the replacement property is purchased or newly constructed.

Section 69.6 Intercounty Base Year Value Transfers

The second type of intercounty base year value transfer is found under Revenue and Taxation Code section 69.6 and allows a homeowner whose primary residence was substantially damaged or destroyed by wildfire or governor-proclaimed natural disaster to transfer the factored base year value to a replacement principal residence located in *any* California county.

To qualify, the property must be damaged or destroyed due to wildfire or governor-proclaimed natural disaster, the physical damage must amount to more than 50% of the damaged property's fair market value immediately before the wildfire or natural disaster, the damaged property must be sold in its damaged state, and the replacement property must be purchased or newly constructed within two years of the date of sale of the damaged property. The replacement property can be of any value. However, any value in excess of the following percentages of the fair market value of the original property will be added to the transferred factored base year value: 100%, if replacement property is purchased or newly constructed before selling the original property; 105%, if the original property is sold within the first year of purchasing or newly constructing replacement property; and 110%, if the original property is sold within the second year of purchasing or newly constructing replacement property.

Further, if the replacement property's fair market value is less than the original property's fair market value when the base year value transfer is originally granted, any new construction to the replacement property within two years of selling the original property may be excluded from new construction assessment to the extent the sum of the fair market value of the new construction and the fair market value of the replacement property on the date of acquisition does not exceed the fair market value of the original property. To qualify for this exclusion, the property owner must notify the county assessor in writing of completion of the new construction within six months after completion.

To claim the Section 69.6 base year value transfer, a form BOE-19-V (Claim for Transfer of Base Year Value to Replacement Primary Residence for Victims of Wildfire or Other Natural Disaster) must be timely filed with the office of the county assessor where the replacement property is located within three years of the purchase or completion of new construction of the replacement property. However, if a claim is not timely filed, prospective relief is still available from the year the claim is filed.

Takeaways

Property owners affected by the recent fires and windstorm conditions have several options for property tax relief, including those outlined here, as well as additional options that may be available depending on the particular facts and circumstances in each case. Affected property owners should promptly evaluate all available options to ensure all requirements to obtain relief, including strict claim submission deadlines, are timely and appropriately satisfied.

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