



OFFICE OF ASSESSOR COUNTY OF ALAMEDA

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ASSESSOR

REASSESSMENT EXCLUSION FOR PARENT-CHILD AND GRANDPARENT-GRANDCHILD OWNERSHIP TRANSFERS

**(REVENUE & TAXATION CODE SECTION 63.1)
(PROPOSITION 58 and 193)**

Propositions 58 and 193 exclude from reappraisal the principal residence and other property as defined when transferred between **parent and child** or between **grandparent and grandchild** provided specific criteria are met.

These criteria include the date of the transfer, total cumulative value transferred, legal relationships of the individuals involved, and the eligibility of the principal residence for a homeowner's exemption.

CHANGES IN THE LAW

Since its inception on November 6, 1986, Proposition 58 (ownership transfers between parents and children) has undergone some significant changes.

For those who are contemplating a change in ownership, or who experience the death of a person owning real property, these changes as well as the basic elements of the law are extremely important.

Filing time limit: (Effective September 30, 1990) Anyone who acquires property on or after September 30, 1990 and desires relief from the date of transfer must file a claim within three years after the date of the transfer or prior to the transfer of the real property to a third party, whichever is earlier. If a claim is not made within this filing period, a claim is considered timely if it is filed within six months after the date the assessor mails a notice of supplemental assessment or escape assessment informing the taxpayer that the property will be reassessed. As of January 1, 1998 if a claim is not filed timely, relief will be granted prospectively only. Prospective relief is not available to properties which have been sold to third parties.

Grandparent/Grandchild transfers: Transfers between grandparents and grandchildren became excluded from reassessment under Proposition 193 effective March 27, 1996.

For those who are selling the real property out of probate, or who are selling as successor trustees, it is important that the Assessor is notified of the death and that a Proposition 58 or 193 claim form is filed.

OWNERSHIP TRANSFER DATES

Rule 462(n) of Title 18, Public Revenue, California Code of Regulations, defines the date of the change in ownership as follows:

Sales or Transfers:

When evidenced by recordation of a deed or other document, the date of recordation is rebuttably presumed to be the date of ownership change.

Where the transfer is accomplished by an unrecorded document, the date of the transfer document is rebuttably presumed to be the date of ownership change.

Inheritance:

Where the property is transferred by will or intestate succession, the transfer date is the date of death.

Trusts:

■ *Revocable Trust.* The transfer date is the date the trust becomes irrevocable. The trust becomes irrevocable upon the death of the trustor.

■ *Irrevocable Trust.* The transfer date is the date property is placed in the trust.

OWNERSHIP TRANSFERS AND CHANGES

Section 60 of the R & T Code defines a "Change in Ownership" as a transfer of a present interest in real property, including the beneficial use thereof. The Proposition 58 exclusion from reassessment (Sec. 63.1 of the R&T Code) may be applied to changes in ownership between parents and children occurring on or after November 6, 1986.

Proposition 193 (also R&T Code Sec. 63.1) applies to ownership changes between grandparents and grandchildren occurring on or after March 27, 1996. To qualify for the grandparent/grandchild exclusion, all parents of the grandchildren who qualify as children of the grandparents must be deceased as of the date of transfer.

The transfer of ownership to or from a legal entity (e.g., partnerships and corporations) is not eligible for the Proposition 58 and 193 exclusions.

Transfers of ownership interests in legal entities are also not eligible. Transfers from a trust, however, may be eligible.

ELIGIBLE PROPERTY

Principal Residence

A claim may be filed on the purchase or transfer of real property that is the principal residence of an eligible transferor. To be considered a principal residence, there must be a homeowner's exemption or a disabled veteran's residence exemption granted in the name of the eligible transferor. There is no limit to the number of transfers of principal residences, but each principal residence must qualify as such. The residence need not become the principal residence of the transferee(s).

Other Property

A claim may also be filed on the purchase or transfer of the first one million dollars (\$1,000,000) of assessed value of all other real property of an eligible transferor. The value is the Proposition 13 value, including the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee. Basically, this is the taxable value on the assessment roll.

WHO ARE CONSIDERED CHILDREN?

- (1) Any child born of the parent(s).
- (2) Any stepchild of the parent(s) and the spouse of that stepchild while the relationship of stepparent and stepchild exists. The relationship exists until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.
- (3) Any son-in-law or daughter-in-law of the parent(s). The relationship of parent and son-in-law or daughter-in-law exists until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.
- (4) Any statutorily adopted child who was adopted before the age of 18.

WHO ARE CONSIDERED GRANDCHILDREN?

For Proposition 193, the same relationship requirements for children apply to grandchildren, step-grandchildren, and grandchildren-in-law. The parents of the grandchild(ren) who would qualify for a Proposition 58 exclusion from the grandparents must be deceased.

You should contact the Assessor's Office regarding specific scenarios to check the eligibility of transfers.

HOW TO FILE

In order to apply for the Proposition 58 and 193 exclusions, the eligible transferee(s) must file a claim with the Assessor. This claim form must be signed by all transferees, or by a legal representative. The transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate must sign the form. When the transfer is from an estate, the decedent is considered to be the transferor. The transferor's social security number must be supplied.

The information in this pamphlet is a general overview of the law and is not meant to be relied upon as complete information.

Please contact the Assessor's Office for all necessary forms including:

- 1) the claim form for the Proposition 58 and 193 exclusion,
- 2) Statement of Death of Real Property Owner
- 3) Preliminary Change in Ownership Report

We are located at 1221 Oak Street, Oakland, CA 94612 or by calling (510) 272-3800.

TELEPHONE NUMBERS

ASSESSOR'S DEPARTMENT

General Information

Assessee Services 510 / 272-3787
Base Value Transfers 510 / 272-3787
(Age 55 / Disabled / Disaster Relief / Eminent Domain)
Exclusions 510 / 272-3800
(Parent-Child / Grandparent-Grandchild)
Change in Ownership Information 510 / 272-3800
Homeowner's Exemption 510 / 272-3770

Business Personal Property

General Information 510 / 272-3836
Boats and Aircraft 510 / 272-3838

South County Toll Free 800 / 660-7725

Web Page: www.acgov.org/assessor

RELATED COUNTY OFFICES

Clerk, Assessment Appeals Board

Assessment Appeals Information 510 / 272-6352

Tax Collector Information

Tax Payment 510 / 272-6800
Including 24 Hour Automated System

Auditor

Property Tax Rates 510 / 272-6564

Recorder

Deed Recording Information 510 / 272-6363