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PHONG LA
ASSESSOR

TRANSFER OF PROPERTY TAX BASE FOR PERSONS 55 AND OLDER OR SEVERELY AND PERMANENTLY DISABLED

(Revenue and Taxation Code 69.5)
(Proposition 60, 90, or 110)

PURPOSE

This pamphlet will acquaint you with Section 69.5 which allows any person age 55 or older or severely and permanently disabled to transfer the base year value of their original property to a replacement dwelling of "equal or lesser value" that is purchased or newly constructed within two years of the sale of the original property. *The full text of the law can be found in the State of California Property Taxes Law Guide, Volume 1.*

HISTORY

Proposition 60 allowed for base value transfers to qualified replacement dwellings of "equal or lesser value" *within the same county* and became effective November 6, 1986.

Proposition 90 extended the Prop 60 benefits to qualified homeowners transferring their base year values from *other counties* and became effective July 13, 1989 in Alameda County.

Proposition 110 extended the benefits to qualified disabled homeowners of any age and became effective for replacement dwellings purchased or newly constructed on or after June 6, 1990.

Senate Bill 1692 effective September 25, 1996 allowed qualified persons who had prior claims based on age 55 to have a second claim based on disability.

REQUIREMENTS

1. At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or severely and permanently disabled. *The claimant's spouse need not be an owner of record of the original property. If co-owners, only the co-owner who is the claimant must be age 55 or disabled.*

2. The claimant has not previously been granted, as a claimant, the property tax relief provided by this section. *(See definition of "claimant")*

The sole exception is where the claimant was first granted relief based on age 55 and subsequently became severely and permanently disabled. The claimant may then qualify for a second claim based on the disability.

3. The replacement property must be purchased or newly constructed within two years *either before or after* of the sale of the original property.

4. The sale of the original property must be a change in ownership that subjects the property to reappraisal at its current market value or results in a base year value transfer as a replacement dwelling for someone qualifying under Section 69.5 or the disaster relief provisions of Section 69.
5. At the time the claim is filed, the claimant is an owner of the replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is eligible for the homeowner's exemption.
6. Either at the time of its sale or at the time it was substantially damaged by calamity or within two years of the purchase or new construction of the replacement dwelling, the claimant was an owner of the original property and occupied it as his or her principal place of residence and, as a result thereof, the property was eligible for the homeowner's exemption.
7. The replacement dwelling must be of "equal or lesser value" than the original residence. ***"Equal or lesser value"*** means that the market value of a replacement dwelling may ***not exceed:***
100% of the market value of the original property if the replacement dwelling is purchased or newly constructed ***prior to*** the date of sale of the original property,
105% of the market value of the original property if the replacement dwelling is purchased or newly constructed ***within the first year following*** the date of sale of the original property, or
110% of the market value of the original property if the replacement dwelling is purchased or newly constructed ***within the second year following*** the date of sale of the original property. The market value of the original property may include indexing adjustments.
Unless the replacement dwelling satisfies the "equal or lesser value" test, no benefit is available, not even a partial benefit.

TO APPLY

To apply and receive ***full*** relief the completed claim form and required documents must be filed with the assessor within ***three years*** of the date the replacement dwelling is purchased or newly constructed. If a claim is not filed within the three years prospective relief can be granted from the year the claim is filed. This claim is not open to public inspection.

TO RESCIND

To rescind a claim a written notice of rescission must be delivered to the assessor within certain time limits. A fee may be required.

DEFINITIONS

"Claimant" means any person claiming relief provided by this law and their spouse if the spouse is also a record owner of the replacement dwelling.

"Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind except that the claimant(s) may hold their residence in trust for themselves.

"Severely and permanently disabled person" is any person who has a physical disability or impairment, whether from birth or by reason of accident or disease, that results in a functional limitation as to employment or substantially limits one or more major life activities of that person.

"Original property" and ***"Replacement dwelling"*** means place of abode that is owned and occupied by the claimant as his or her principal place of residence. *Each unit of a multi-unit dwelling is considered a separate dwelling for claim purposes.*

"Sale and Purchase" mean "a change in ownership for consideration".

"Market value of the original property" means its market value at the time of its sale or immediately prior to its damage by calamity if it was sold in its damaged state.

QUESTIONS & ANSWERS

Q: When making the "equal or lesser value" test, is a simple comparison of the sales price of the original residence and the purchase price or cost of new construction of the replacement dwelling all that is needed?

A: *Generally, when a property is sold on the open market its sales price is considered market value. However, because sale/purchase prices or costs of new construction are not always the same as market value, the assessor may have to determine the market value, which may differ from the sale/purchase price or cost of new construction.*

Note: *Only the market value of the primary residence and its related improvements are used for the "equal or lesser value" test. For single unit properties this represents the total value of the property. For residential properties with commercial uses or extra living units the appraiser must deduct the market value of those portions for the "equal or lesser value" tests. (See example below)*

Q: The claimant sold his original two-unit property that consisted of his primary residence and a second unit and purchased a replacement dwelling. What portion of his sold property will qualify as the "original property" for the "equal of lesser value" test?

A: *For the "equal or lesser value" test, the "original property" consists of the claimant's primary residence (land and improvements). The market value of the second unit (land and improvements) would be deducted from the market value of the total property. Only the amount of the indexed base value allocated to the original residence would be transferred.*

Q: If otherwise qualified, will I meet the "equal or lesser value" test if I sold my original residence July 20, 1999 for \$350,000 and purchased my replacement dwelling May 3, 2000 for \$365,000? Both properties were bought and sold for market value.

A: *Yes. The replacement dwelling was purchased within the first year following the sale of the original and its purchase price did not exceed 105% of the market value of the original residence ($\$350,000 \times 1.05 = \$367,500$). (See requirement No. 7)*

Q: Can an otherwise qualified owner buy a vacant lot and then build a new replacement dwelling and qualify?

A: *Yes. As long as the completion of the new dwelling took place within two years, either before or after, the sale of the original property. The purchase of the lot can take place at any time before the completion of new construction. For the "equal or lesser value" test the total market value of the replacement property (land and improvements) is determined as of the date of the completion of the new construction.*

Q: Can I, a qualified claimant, sell my original home and buy a replacement dwelling with co-owners not of age 55 and transfer my base value?

A: *Yes, co-owners of any age are allowed. However, the total full market value of your original home will be compared with the total full market value of the replacement dwelling for the "equal or lesser value" test regardless of the fact that you are only a part owner of the replacement dwelling.*

Q: Can two owners sell their separately owned and occupied properties, combine their base year values, and purchase one replacement dwelling together?

A: *No. There is no provision for combining base year values. The base year value of only one original property can be transferred to the replacement dwelling.*

Q: Can two co-owners sell their original residence they shared and each still qualify for the claim when each acquires a separate replacement dwelling?

A: *No. Only one can receive the benefit. The qualified co-owners must decide between themselves who will get the benefit. Only in the case of a multiple unit original property where several co-owners qualify for separate homeowner's exemptions may portions of the factored base year value of that property be transferred to several qualified replacement dwellings.*

Q: Can I sell my original property and purchase a 50% interest in a replacement dwelling and still qualify?

A: *No. A partial or fractional interest purchase is not eligible. The entire interests in both the replacement dwelling and the original property must be purchased and sold.*

Q: Will the transfer of an original property or acquisition of a replacement dwelling by gift or devise qualify under Section 69.5?

A: *A property that is given away or acquired by gift or devise will not qualify because nothing of value was exchanged. Section 69.5 requires a "sale" of the original property and a "purchase" of a replacement dwelling.*

Q: May I sell my original property to my child and give my child the benefit of the parent-child exclusion and still transfer my base value when I purchase a replacement property?

A: *No. The parents need to choose to which exclusion they wish to apply their base year value. If the parents sell to their children and choose to transfer their base year value to them using the parent-child exclusion, then the base year value is no longer theirs to transfer to a replacement residence.*

Q: Can a mobile home qualify as either an original or a replacement dwelling for the base year value transfer?

A: *Yes, but only if the mobile home is subject to local property taxation (LPT). Mobile homes that pay vehicle license fees annually (VLF) would not qualify because they have no base year values.*

Q: Can a supplemental tax assessment be issued when the base year value is transferred from an original property to a replacement dwelling?

A: *Yes. The law requires that supplemental assessments, both positive and negative, be calculated for all transactions that result in base-year value changes. This is accomplished by comparing the base value transferred from the original property to the assessment on the replacement dwelling.*

Q: After receiving the notice that my application has been approved, do I still need to pay the existing tax bills?

A: *Yes. All outstanding tax bills on your replacement property must be paid. They will not be cancelled or corrected. Any overpayments you make will be refunded when the claim is processed.*

Q: Can new construction completed on a replacement dwelling after the transfer of the base value also qualify for relief under this section?

A: *Yes, provided that the new construction was completed within two years of the sale of the original property, the assessor is notified within 6 months of the completion, and the market value of the new construction plus the market value of the replacement dwelling when acquired does not exceed the market value of the original property as determined for the original claim.*

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

Toll Free 800 / 660-7725

Web Site: www.acgov.org/assessor

RELATED COUNTY OFFICES

Clerk, Assessment Appeals Board

Assessment Appeals Information 510 / 272-6352

Tax Collector

Tax payment information including
24 Hour Automated System 510 / 272-6800

Auditor

Property Tax Rates 510 / 272-6564

Recorder

Deed Recording Information 510 / 272-6363