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November 22, 2000

No. 2000/068

TO COUNTY ASSESSORS:

LEGISLATIVE CHANGES TO REVENUE AND TAXATION CODE SECTION 69.5

Chapters 693 (SB 383, Haynes) and 417 (SB 1417, Wright) of the Statutes of 2000 amend section 69.5 of the Revenue and Taxation Code.¹ This section implements Propositions 60, 90, and 110, which authorize transfers of base year value for persons age 55 and over and disabled persons. Chapter 693 incorporates the changes made by Chapter 417. Since Chapter 693 was chaptered later, it is the reference to be cited for these changes.

Effective September 27, 2000, Chapter 693 precludes an escape assessment from being levied if an intercounty transfer of base year value has been erroneously granted pursuant to an expired ordinance. Effective January 1, 2001, (1) the assessor is required, upon a taxpayer's request, to rescind the base year value transfer if the home was vacated within 90 days after the claim was filed, and (2) intercounty base year value transfers may be granted prospectively in counties that change the effective date of their ordinance where the period for filing a timely claim would have otherwise expired.

RESCISSIONS

Generally, persons who are age 55 and over or who are severely and permanently disabled are permitted to transfer, once in the person's lifetime,² the base year value from one home to another of equal or lesser value. Existing law provides that, in certain circumstances, a claimant may rescind their previously filed claim for a base year value transfer. Currently, a claim may be rescinded pursuant to section 69.5(i) if a written notice of rescission, signed by the original claimant(s), is delivered to the assessor's office (where the claim was filed) before any of the following have occurred:

- The county first issues a refund check for the property taxes on the transferred base year value.
- If a refund is not applicable, before property taxes are paid on the new transferred base year value.
- If taxes have not been paid, before property taxes on the new transferred base year value become delinquent.

¹ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

² The sole exception to this one-time only requirement occurs where the claimant was first granted relief for age, subsequently became severely and permanently disabled, and had to move because of the disability (section 69.5(b)(7)).

Operative January 1, 2001, Chapter 693 amends subdivision (i) and adds another provision authorizing rescission of a claim transferring a base year value. Under this provision, if the replacement dwelling was vacated as the claimant's principal place of residence within 90 days after the date the original claim for a base year value was filed, and a written request to rescind the transfer is made within six years after the relief was granted, then the assessor must rescind the transfer. Under the amendments, "within six years after the relief was granted" means within six years from the date the county issues a refund check or property taxes are paid on the new transferred base year value.

If this rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in section 506, shall be imposed. The statute of limitations for any escape or supplemental assessment will not commence until July 1 of the assessment year in which the notice of rescission is filed with the county assessor. In addition, the fee authorization contained in section 69.5(i)(3) applies to rescissions under this provision.

If a claim is successfully rescinded, then the base year value from the original property may be transferred to another property as long as the second property also meets all the requirements of section 69.5. After a claim is rescinded, the assessor should notify the Board of both the rescission and the second transfer pursuant to section 69.5(b)(7).

The Board is in the process of developing a rescission form. This form will be mailed to county assessors after the approval process is complete.

INTERCOUNTY ORDINANCE EFFECTIVE DATE—PROSPECTIVE RELIEF

Existing law provides that a claimant may transfer their base year value to a newly acquired residence that is located in another county, but only if the county board of supervisors of the receiving county has adopted an ordinance accepting such base year value transfer. Section 69.5(a)(2)(E) provides that a county may specify an effective date that is earlier than the actual date the ordinance is adopted, but no earlier than November 9, 1988 (the effective date of Proposition 90). In addition, section 69.5(e)(B)(5) requires, in part, that to transfer a base year value, a person must file a claim within three years of the date the replacement property is purchased or construction is completed.

Operative January 1, 2001, Chapter 693 adds subdivision (k) to section 69.5 to provide that if a county adopts an ordinance with an effective date that is more than three years prior to the actual date the ordinance is adopted, then those persons who would have been eligible to receive a base year value transfer, if an ordinance had been in effect at the time they purchased their home, and who would otherwise be precluded from filing a "timely" claim because the three-year filing period had elapsed, could still file and receive a base year value transfer on a prospective basis.

ESCAPE ASSESSMENT EXCLUSION

Effective September 27, 2000, Chapter 693 adds subdivision (l) to section 69.5 to provide that if an intercounty base year value transfer is erroneously granted after a county's ordinance has

expired, escape assessments for prior years taxes will not be levied. When an assessor discovers that an intercounty transfer of base year value pursuant to section 69.5 has been erroneously granted, the assessor should determine a new base year value for the date of change in ownership, apply any applicable inflationary factoring, and enroll the new factored base year value on the ensuing lien date.

CONCLUSION

A copy of subdivisions (i), (k), and (l) of section 69.5 is enclosed for your reference. If you have any questions regarding the application of section 69.5, please contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,

/s/ Richard C. Johnson

Richard C. Johnson
Deputy Director
Property Taxes Department

RCJ:grs

Enclosure

Section 69.5 is amended to read:

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred as follows:

(1) The A written notice of rescission is signed by the original filing claimant or claimants is delivered to the office of the assessor in which the original claim was filed.

(2) (A) Except as otherwise provided in this paragraph, The notice of rescission is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowners' exemption. If the rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

~~(k) This section shall remain operative only until January 1, 1999, and on that date is repealed.~~

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and

who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph shall not be construed as a waiver of any other requirement of this section.

(2) This subdivision shall not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

(3) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(l) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.