



STATE BOARD OF EQUALIZATION

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No. 92/15

February 28, 1992

TO COUNTY ASSESSORS:

FILING REQUIREMENTS FOR CLAIMS FOR SECTION 63.1 EXCLUSION  
(PARENT/CHILD TRANSFER EXCLUSION)  
THIRD PARTY TRANSFERS

Chapter 1494 of the Statutes of 1990 (Assembly Bill 3843, Cannella) changed the filing requirements for claims for the exclusion of parent/child transfers from the definition of change in ownership (Section 63.1 exclusion). It amended Section 63.1(d)(2)(C) of the Revenue and Taxation Code to require that:

"Any claim under this section shall be filed within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier." (Emphasized portion added by Assembly Bill 3843.)

This bill was urgency legislation effective on September 30, 1990. The effects of this legislation were addressed in detail in letter to assessors 91/76.

As noted in that letter, the issue of when a third party transfer affects the validity of a Section 63.1 claim remained unresolved. Subsequently, on November 21, 1991, the Members of the State Board of Equalization adopted an interpretation of Chapter 1494 which provides that the "requirement to file a claim prior to a third party transfer" applies only to parent/child transfers which occur on or after the effective date of the legislation. Therefore, the key factor in determining whether a claim is subject to the "requirement to file a claim prior to a third party transfer" is the date the parent/child transfer occurs. This is illustrated below.

Parent/child transfer occurs before September 30, 1990:  
Requirement to file a claim prior to a third party transfer is not applicable.

Parent/child transfer occurs on or after September 30, 1990:  
Requirement to file a claim prior to a third party transfer is applicable.

Prior to the Board's interpretation, the staff had taken the position that the key factor in determining whether a claim is subject to the "requirement to file a claim prior to a third party transfer" was the date the claim was filed. Anyone requesting advice on this matter was told that any claim

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filed on or after September 30, 1990, when the property had transferred to a third party prior to the filing of the claim, did not meet the filing requirements, regardless of the date the parent/child transfer occurred. This position is no longer valid. We regret any inconvenience our previous advice to those individuals may have caused.

Enclosed are examples of whether specific claims meet the filing requirements of Section 63.1. Please note that some of the examples illustrate situations addressed in letter to assessors 91/76.

If you have any questions concerning the filing requirements for the parent/child exclusion, please feel free to contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:sk  
Enclosure

## EXAMPLES

The following situations demonstrate whether a claim meets the filing requirements of Section 63.1. Some of the examples illustrate situations addressed in letter to assessors 91/76. Please refer to that letter for further information where noted.

### **EXAMPLE 1:**

**Transfer occurred prior to 9/30/90.**  
**Sale to a third party before filing the claim:**

Parent/child transfer due to death	5/1/90
Property transfers to third party	8/1/90
Executor files claim	9/1/90

The claim meets the filing requirements. The transfer occurred prior to the effective date requiring claims to be filed prior to sale to a third party.

### **EXAMPLE 2:**

**Transfer occurs or or after 9/30/90.**  
**Sale to a third party before filing the claim:**

Parent/child transfer due to death	10/1/90
Property transfers to third party	11/1/90
Executor files claim	12/1/90

The claim does not meet the filing requirements. The transfer occurred after the effective date requiring claims to be filed prior to sale to a third party.

### **EXAMPLE 3:**

**Larson-Duca situation (parent dies before 11/5/86; estate in probate). Date of the decree of distribution is before 9/30/90:**

Transfer to child via decree of distribution	5/1/90
Property transfers to a third party	10/1/90
Child files claim	11/1/90

The claim meets the filing requirements. The transfer occurred on the date of the decree of distribution, prior to the effective date requiring claims to be filed prior to the transfer of the property to a third party; and the claim was filed within three years of the date of the decree of distribution.

**EXAMPLE 4:**

**Concurrent recording of an unrestricted transfer from grandparent to parent to child:**

Deeds recorded	10/1/90
Concurrent claims filed	10/1/90

The claims meet the filing requirements. The claims were filed on the same date as the filing of the concurrent deeds (refer to letter to assessors 91/76).

**EXAMPLE 5:**

**Concurrent recording of an unrestricted transfer from grandparent to parent to child:**

Deed recorded	10/1/90
Concurrent claims filed	10/2/90

The claim for the transfer from grandparent to parent does not meet the filing requirements. However, the claim for the transfer from parent to child does meet the filing requirements. The first transfer (grandparent to parent) is a change in ownership since the transfer occurred after the effective date of the legislation (9/30/90) and the claim was filed after the transfer to a third party. The second transfer (parent to child) can be excluded from change in ownership if it otherwise qualifies (refer to letter to assessors 91/76).

**EXAMPLE 6:**

**Spousal transfers prior to filing claim:**

Parent transfers property to child	1/1/91
Child adds spouse to deed	1/2/91
Child files claim	1/3/91

The claim meets the filing requirements. There has not been a transfer of the real property to a third party since only half of the interest received in the real property has been transferred (refer to letter to assessors 91/76).

**EXAMPLE 7:**

**Spousal transfers prior to filing claim:**

Parent transfers property to child	1/1/91
Child transfers all interest received in property to spouse	8/1/91
Child files claim	8/2/91

The claim does not meet the filing requirements. There has been a transfer of all the interests in the real property received to a third party prior to filing a claim and the transfer occurred after the effective date of the legislation. The transfer to the child is reappraised for the 1/1/91 change in ownership. However, the transfer to the spouse on 8/1/91 is excluded from change in ownership under Section 61 of the Revenue and Taxation Code (refer to letter to assessors 91/76).

**EXAMPLE 8:**

**Sibling transfers prior to filing claim:**

Parent transfers property to two children ("A" and "B")	1/1/91
"A" sells his interest to "B"	5/1/91
"A" files claim	5/2/91

The claim meets the filing requirements. The transfer from "A" to "B" is not a third party transfer since it is a transfer between transferees. However, the sale between siblings on 5/1/91 is a reappraisable change in ownership (refer to letter to assessors 91/76).

**EXAMPLE 9:**

**Partial transfer to a third party prior to filing claim:**

Parent transfers property to child	1/1/91
Child sells a portion of his/her interest to a third party	8/1/91
Child files claim	8/2/91

The claim meets the filing requirements. For filing purposes, there has not been a transfer of the property received to a third party because only a portion of the child's interest in the property received has been transferred. Therefore, the transfer of 1/1/91 qualifies for Section 63.1 exclusion. However, the sale of the partial interest in the real property on 8/1/91 is a change in ownership (refer to letter to assessors 91/76).

**EXAMPLE 10:**

**Transfer to a legal entity prior to filing claim:**

Parent transfers property to child	1/1/91
Child transfers property to his solely owned corporation	5/1/91
Child files claim	5/2/91

The claim does not meet the filing requirements. A transfer of the property received occurred after the effective date of the legislation and the property

was transferred to a third party prior to filing the claim for the parent/child exclusion. Consequently, the parent/child transfer on 1/1/91 is a reappraisable event. However, the transfer from the child to the child's corporation on 5/1/91 is not a change in ownership since proportionality is maintained under Section 62(a)(2) of the Revenue and Taxation Code (refer to letter to assessors 91/76).

**EXAMPLE 11:**

**Transfer to a trust prior to filing claim:**

Parent transfers property to child	1/1/91
Child transfers property to his trust of which he is the present beneficiary	5/1/91
Child files claim	5/2/91

The claim meets the filing requirements. A transfer to a trust in which the child is a present beneficiary of the trust is not a transfer of the property to a third party. However, a transfer to a trust in which the child is not a present beneficiary would be a transfer to a third party, assuming the transfer to the trust occurred after the effective date of the legislation (refer to letter to assessors 91/76).