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No. 2006/025

TO COUNTY ASSESSORS:

GRANDPARENT/GRANDCHILD EXCLUSION –
MIDDLE GENERATION LIMITATION

Article XIII A, section 2(h), of the California Constitution and section 63.1 of the Revenue and Taxation Code¹ provide that a change in ownership does not include the purchase or transfer of real property from grandparents to their grandchild if all of the parents of that grandchild who qualify as the children of the grandparents are deceased as of the date of purchase or transfer. Senate Bill 555 (Chapter 264, Stats. 2005) amends section 63.1 to provide that, for purposes of the grandparent-grandchild exclusion, a son-in-law or daughter-in-law of the grandparent who is a stepparent to the grandchild need not be deceased in order to meet the condition that "all of the parents" of the grandchild must be deceased. Transfers qualifying for exclusion based upon this change in the law must occur on or after January 1, 2006.

Specifically, effective January 1, 2006, Chapter 264 amends subdivisions (a)(3) and (c)(2) of section 63.1 as follows:

(a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

... (3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer. *Notwithstanding any other provision of law, for the lien date for the 2006-07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.*

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

(c) As used in this section:

... (2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death. *Notwithstanding any other provision of law, for the lien date for the 2006-07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.*

Thus, the existence of a stepparent of the grandchild who is an in-law of the grandparent is not a disqualifying factor in the application of the exclusion for a transfer of real property from the grandparent to the grandchild.

This change in the qualifications for the grandparent-grandchild exclusion applies to transfers that occur on or after January 1, 2006. In other words, transfers occurring on or before December 31, 2005, with claims for exclusion filed on or after January 1, 2006, will not benefit from this change in the law.

The claim form for this exclusion was revised to reflect this legislative change. The updated *Claim for Reassessment Exclusion for Transfer from Grandparent to Grandchild* (BOE-58-G) was mailed with Letter To Assessors No. 2005/059 (dated October 17, 2005), along with the other Board-prescribed forms that were affected by 2005 legislation.

If you have questions regarding the grandparent-grandchild exclusion, please contact our Real Property Technical Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

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