



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 445-4982 • FAX 916 323-8765
www.boe.ca.gov

BETTY T. YEE
Acting Member
First District, San Francisco

BILL LEONARD
Second District, Sacramento/Ontario

CLAUDE PARRISH
Third District, Long Beach

JOHN CHIANG
Fourth District, Los Angeles

STEVE WESTLY
State Controller, Sacramento

RAMON J. HIRSIG
Executive Director

No. 2006/056
Correction

December 21, 2006

TO COUNTY ASSESSORS:

BASE YEAR VALUE TRANSFER FOR PERSONS OVER
AGE 55 OR DISABLED—CHANGE IN FILING REQUIREMENTS

Revenue and Taxation Code section 69.5 allows homeowners over age 55 or permanently disabled to transfer their base year value from one home to another, provided certain conditions are met. One of these conditions is that a claim must be filed within three years of the purchase or completion of construction of the replacement dwelling. The Governor recently signed Assembly Bill 3076 (Stats. 2006, Ch. 364) which, in part, amends section 69.5 to allow base year value transfers for persons over age 55 or disabled to be granted on a prospective basis if a claim is filed after the three-year filing period. A copy of the amended section is enclosed with this letter.

Effective January 1, 2007, the addition of paragraph (2) to section 69.5(f) allows the assessor to grant, on a prospective basis, a transfer of base year value if a claim is filed *after* the conclusion of the three-year filing period. Thus, taxpayers whose claims were previously denied solely because they were filed after the three-year filing period (that is, the claims were considered untimely) may now refile and receive prospective relief. In addition, a taxpayer who never filed a claim may now file and receive prospective relief if all the other requirements of section 69.5 are met. The amendments apply only where the replacement property has not been transferred to a third party. The prospective relief provisions apply only where the three-year filing period was missed; it does not apply to a missed 30-day filing period for the completion of new construction after the transfer of base year value.

Prospective Relief. Prospective relief is applied "commencing with the lien date of the assessment year in which the claim is filed." This means that relief is applied as of the lien date preceding the filing. In other words, when a claim for prospective relief is filed, relief is applied to the fiscal year which begins on July 1 of the calendar year in which the claim is filed. Claims that are filed after the roll has closed will require roll corrections and refunds.

Claims filed untimely prior to January 1, 2007

1. Claim must be *refiled* after January 1, 2007.
2. If all eligibility requirements of section 69.5 are met, the exclusion is applied as of the lien date of the assessment year in which the claim is refiled.

Example: A replacement property was purchased in May 2001 and the original property was sold in April 2003. A claim for the base year value transfer was filed in June 2004. The claim was denied because it was filed after the three-year deadline (all other eligibility requirements were met). The claim is refiled in 2007. The exclusion is effective for the January 1, 2007, lien date for the 2007-08 fiscal year and subsequent years.

First-time claims filed untimely after January 1, 2007

1. Claim may be filed at any time.
2. If all eligibility requirements of section 69.5 are met, the exclusion is applied as of the lien date of the assessment year in which the claim is filed.

Example: The original property sold in 1997 and a replacement property was purchased in 1998. The taxpayer did not file a claim. A claim filed in March 2007 is eligible for prospective relief. If all other eligibility requirements are met, the exclusion is effective for the January 1, 2007 lien date for the 2007-08 fiscal year and subsequent years.

Claims filed timely prior to January 1, 2007, but previously denied for other reasons

Claims that were filed timely but denied because one of the other qualifications was not met (for example, claimant not age 55 when original property sold, market value of replacement property exceeded the applicable limit, replacement property not purchased within two year period) are not eligible for prospective relief.

Example: The original property sold in 1997 for \$500,000 and a replacement property was purchased in 1998 for \$650,000. The taxpayer's timely filed claim was denied because the market value of the replacement property exceeded the market value of the original property. A claim filed in March 2007 is not eligible for prospective relief.

Example: The original property sold in August 1997 and a replacement property was purchased in January 1998. The taxpayer timely filed a claim, and the base year value was transferred. Subsequently, the taxpayer added another bedroom and bathroom which was completed in July 1999. Taxpayer notified assessor in November 1999 that he wanted the construction included in the base year value transfer. This request was denied because it was not made within 30 days of completion of construction.¹ A claim filed in 2007 to include the new construction in the transferred base year value is not eligible for prospective relief.

Intercounty Base Year Value Transfer Ordinance. If a claim for prospective relief is filed in a county that no longer has an ordinance allowing intercounty transfers of base year values, the claim for prospective relief should be granted if the ordinance was in effect at the time the base year value transfer would have occurred.

Example: The replacement property, located in Kern County, was purchased in March 2002. The original property, located in another county, was sold in April 2003. The taxpayer did not

¹ Revenue and Taxation Code section 69.5(h)(4)(A).

file a claim. Because Kern County had an intercounty transfer ordinance in 2003, a claim for prospective relief filed in 2007 should be granted if all the requirements are met.

Calculation of Prospective Relief Value. Under section 69.5(f)(2)(B), the value to be enrolled for any claim granted pursuant to these provisions should be the adjusted base year value of the original property on the roll when it was sold, factored forward for inflation to the current year. The factored base year value of any new construction which occurred between the date of sale and the date the prospective relief is being applied should also be added.

Example: The replacement property was purchased in September 2000; the original property sold in October 2000. A claim was not filed timely. A claim is filed in 2007, beyond the specified filing period. The claimant may receive prospective relief if all other requirements are met. Specifically, the base year value may be transferred as of the January 1, 2007, lien date for the 2007-08 roll. The factored base year value of the original property on the 2000-01 roll at the time of the transfer was \$78,452. A pool and spa were completed in August 2002; a base year value of \$20,000 was established for the new construction.

The value to be enrolled for the January 1, 2007, lien date is \$111,616 (the \$78,452 base year value plus the \$20,000 base year value of the new construction factored forward by the inflation factor for each of the intervening years).

<i>Year</i>	<i>Factor</i>	<i>Factored Base Year Value</i>
2000-01		\$78,452
2001-02	x 1.02	\$80,021
2002-03	x 1.02	\$81,621
2003-04	x 1.02	\$83,253 + \$20,000 NC
2004-05	x 1.01867	\$105,180
2005-06	x 1.02	\$107,283
2006-07	x 1.02	\$109,428
2007-08	x 1.02	\$111,616

Roll Corrections/Refunds. Prospective relief is applied to the fiscal year which begins on July 1 of the calendar year in which the claim is filed. Claims that are filed after July 1 (after the roll has closed) will require roll corrections and refunds.

Example: The original property sold in 1997, and a replacement property was purchased in 1998. The taxpayer did not file a claim. A claim filed in December 2007 is eligible for prospective relief. If all other eligibility requirements are met, the exclusion is effective for the January 1, 2007, lien date for the 2007-08 fiscal year and subsequent years. The factored base year value applied to the 2007-08 assessment roll should be corrected and a refund issued if the 2007-08 taxes were paid.

Notification. Assessors may want to consider methods of notifying taxpayers of their right to file claims under these new prospective relief provisions. Options might include an insert to the tax bill or sending individual letters to taxpayers whose claims were previously denied due to late filing.

Conclusion. Please note that this amendment does *not* eliminate the filing deadline. Claims must be filed timely to receive retroactive relief. If claims are not filed within three years of the purchase or completion of construction of the replacement dwelling, they may receive prospective relief only.

If you have any questions concerning the new filing requirements, 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

DJG:grs
Enclosure

Revenue and Taxation Code section 69.5(f), as amended by Chapter 364, Statutes of 2006:

... (f) (1) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that shall be designed by the State Board of Equalization and that the assessor shall make available upon request, the following information:

~~(1)~~ (A) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

~~(2)~~ (B) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

~~(A)~~ (i) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

~~(B)~~ (ii) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

~~(3)~~ (C) The address and, if known, the assessor's parcel number of the original property.

~~(4)~~ (D) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

~~(5)~~ (E) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

~~The State Board of Equalization shall design the form for claiming eligibility.~~

~~Any~~ (F) Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k) or (m).

(2) A claim for transfer of base year value under this section that is filed after the expiration of the filing period set forth in subparagraph (F) of paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any base year value transfer granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) The full cash value of the replacement property in the assessment year described in subparagraph (A) shall be the base year value of the real property in the assessment year in which the base year value was transferred, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property that does not qualify for property tax relief pursuant to the criteria set forth in subparagraphs (A) and (B) of paragraph (4) of subdivision (h).