

**Amend Revenue and Taxation Code Sections 63.1 and 69.5 to expressly provide that claim forms for the Parent-Child Exclusion and Elderly and Disabled Base Year Value Transfers are confidential in order to protect disclosure of a taxpayer's social security number. (Housekeeping)**

**Source: Property and Special Taxes Department and Legal Department**

**Existing Law:**

Under existing property tax law, real property is reassessed to its current fair market value whenever there is a "change in ownership." (*Article XIII A, Sec. 2; Revenue and Taxation Code Sections 60 - 69.7*) However under certain circumstances property owners may avoid reassessment by way of either a change in ownership exclusion or a base year value transfer.

**Parent-Child Exclusion.** Proposition 58, which was passed by the voters of California on November 4, 1986, added subdivision (h) to section 2 of article XIII A of the California Constitution, and provides, in part, that the term "change in ownership" shall not include the purchase or transfer between parents and their children of a principal residence, or the first \$1 million of the full cash value of all other real property. Proposition 193 on the March 1996 ballot amended this section to apply the exclusion to transfers of real property from grandparents to grandchildren when all the parents of the grandchildren who qualify as children of the grandparents are deceased as of the date of transfer. By avoiding reassessment to current market value, children or grandchildren can preserve the Proposition 13 protected value of property acquired from their parents (or vice versa) and the property taxes on the property will remain the same.

Revenue and Taxation Code Section 63.1 provides the statutory implementation for Propositions 58 and 193. To receive the change in ownership exclusion, Section 63.1 requires the taxpayer to file a claim form with the assessor. Relevant to this proposal, subdivision (d) of Section 63.1 requires that the social security number of each eligible transferor be provided on the claim form. Social security numbers are the basis by which the \$1 million limitation is monitored on a statewide basis. County assessors report quarterly to the Board of Equalization all claims for the exclusion, other than those involving a principal residence. Properties transferred after the \$1 million assessed value ceiling is reached are subject to reassessment at current market value.

**Base Year Value Transfers: Elderly and Disabled.** Proposition 60, which was passed by the voters in November 1986, amended Section 2 of Article XIII A of the California Constitution to allow persons over the age of 55 to sell a principal place of residence and transfer the base year value to a replacement principal place of residence within the same county. This allows homeowners to preserve their Proposition 13 protected value by transferring it to their new home. Proposition 90, which was passed by the voters in

November 1988, extended these provisions to a replacement dwelling located in another county under limited conditions. Proposition 110, which was passed by the voters in June 1990, extended these provisions to severely and permanently disabled persons of any age.

Revenue and Taxation Code Section 69.5 provides the statutory implementation for Propositions 60, 90 and 110. It details the provisions by which persons over the age of 55 years and disabled persons may transfer, subject to many conditions and limitations, the base year value of their primary residence to a newly acquired replacement residence. This property tax relief is generally allowed only once in a lifetime. To receive the base year value transfer, Section 69.5 requires the taxpayer to file a claim form with the assessor. Relevant to this proposal, subdivision (a) of Section 69.5 requires that the social security number of each claimant be provided on the claim form. Social security numbers are the basis by which the once in a lifetime benefit is monitored on a statewide basis. County assessors report quarterly to the Board of Equalization all claims for base year value transfers.

**Claim Confidentiality.** Because claims for these property tax relief benefits contain social security numbers, the Board prescribed claim forms include a statement that it is not be subject to public inspection. However, persons have made a Public Records Act request to counties for copies of all claims submitted by property owners. Board staff is of the opinion that these claims are not subject to public inspection under the Information Practices Act which was enacted to limit the dissemination of personal information. However, it is not expressly stated in law.

**This Proposal:**

It is recommended that Section 63.1 and 69.5 be amended to specifically state that these claims are not public documents and not subject to public inspection to provide clarity to tax practitioners as well as interested parties seeking such information.

**Technical Correction.** In 1990, three bills amended Section 69.5 (Statutes 1990, Chapters 902, 1487, and 1494). Inadvertently, a change made by Chapter 902 (AB 3723) to Section 69.5(f)(1) that took effect on January 1, 1999, was chaptered out and created an inconsistency between the definition of claimant in subdivision (g)(9) and the claimant's information required to be reported on the claim form. Thus, staff recommends that subdivision (f)(1) be amended to add the change made by AB 3723.

*Section 63.1 of the Revenue and Taxation Code is amended to read:*

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, 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.

(C) Notwithstanding subparagraphs (A) and (B), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

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

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, 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.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph (2) shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(4) For purposes of this subdivision, a transfer of real property to a parent or child of the transferor shall not be considered a transfer to a third party.

(5) A claim filed under this section is not a public document and not subject to public inspection.

*Section 69.5 of the Revenue and Taxation Code is amended to read:*

(f) 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 the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who ~~was a record owner of the original property at the time of its sale or~~ is a record owner of the replacement dwelling.

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(f) (5) 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 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). A claim filed under this section is not a public document and not subject to public inspection.