



STATE BOARD OF EQUALIZATION

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September 21, 2001

JAMES E. SPEED
Executive Director

***Subject: Request for Opinion Letter - Revenue and Taxation Code section 63.1(b)(1)
Principal Residence***

Dear Ms. _____,

This is in reply to your facsimile message dated August 9, 2001 in which you request clarification concerning the meaning of the provision in subdivision (b)(1) of section 63.1 which defines a "principal residence" as including "only that portion of the land underlying the principal residence that consists of an area of reasonable size that is used as a site for the residence." You state that the decedent transferor resided in a home situated on an estimated 400 acres which also included some commercial ranching activity.

Clearly, the phrase, "area of a reasonable size that is used as a site for the residence", indicates that the Legislature intended to limit the amount of land underlying a principal residence to which the section 63.1 benefit would apply. In our view, this limitation is a question of fact in each instance to be determined by the assessor and, in this regard, lot or parcel designation, minimum zoning requirements or other fixed criteria may be relevant considerations. Additionally, when determining an area of reasonable size, numerous factors, such as the physical terrain, access, actual use, alternative use, and comparable properties, may be relevant and taken into account by an assessor when making his or her determination.

By way of some guidance, where an appraisal unit consists of a combination principal residence and business property, such as a farm, the homeowner's exemption pursuant to section 218 is not allowed on that portion of the improvements and land that are leased or used for business purposes. (See Letter to Assessors No. 82/50, pg. 2, 22, 24-25, attached). In any event, if it is determined that the entire 400 acres does not qualify as part of the principal residence, it may be excludable as "other real property of an eligible transferor" under section 63.1(a)(1).

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As you may be aware, if you are not satisfied with the decision by the assessor's office, you may appeal your case to the county assessment appeals board. Your appeal would involve challenging the supplemental assessment and/or base year value of the subject property upon reassessment by the assessor. The time limitations periods for filing applications for reassessment are set forth, respectively, in section 1605 and sections 1603 and 80 of the Revenue and Taxation Code. Pursuant to Section 1605, you are required to file your application appealing the supplemental assessment within 60 days of the mailing of notice of supplemental assessment or mailing of the tax bill if it serves as notice. To appeal the new base year value of the property, you are required, under section 1603, to file during the regular period (July 2 and September 15th) following the lien date in which the base year has been enrolled or, under section 80, during the regular period in any of the following three years. Please be advised that relief granted on an application filed during the time limitations periods prescribed by section 80 is prospective only.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

/s/ Louis Ambrose

Louis Ambrose
Senior Tax Counsel

LA:lg

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cc: Mr. Dick Johnson, MIC:63
Mr. David Gau, MIC:64
Ms. Jennifer Willis, MIC:70