STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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May 6, 1991

TO COUNTY ASSESSORS:

No. 91/33

PROPOSITION 110
BASE YEAR VALUE TRANSFERS FOR DISABLED PERSONS

Senate Constitutional Amendment 37 (Proposition 110) was approved by the voters at the direct primary election on June 5, 1990. This amendment, in part, authorizes the Legislature to extend existing base year value transfer benefits available to persons over the age of 55 (Section 69.5 of the Revenue and Taxation Code) to severely disabled persons.

Senate Constitutional Amendment 37 also authorizes the Legislature to exclude from the term "newly constructed" certain construction, installation, or modification of an existing single- or multiple-family dwelling that is eligible for the homeowners' exemption. The exclusion applies if the construction, installation, or modification is for the purpose of making the dwelling more accessible for a severely disabled person who is a permanent resident of the dwelling. Section 4 of Chapter 1494 adds Section 74.3 to the Revenue and Taxation Code to implement these provisions. A separate letter to assessors, number 91/34, addresses the specifics of this exclusion.

The implementing legislation to allow a base year value transfer for severely disabled persons is Sections 2.7 and 3.7 of Chapter 1494 of the Statutes of 1990 (Assembly Bill 3843, Cannella). Among other things, this legislation amends Section 69.5 of the Revenue and Taxation Code. Section 2.7 has a sunset clause that states the amendments are operative only until January 1, 1999 and as of that date are repealed. On that same date, Section 3.7 becomes operative.

Section 69.5 of the Revenue and Taxation Code now authorizes people who are severely and permanently disabled and those who are over the age of 55 to transfer the base year value of their principal residence to a replacement dwelling. Claims for the transfer of a base year value must be granted if all the requirements are met and the original property and replacement dwelling are located within the same county. However, claims for base year value transfer when the original property and replacement dwelling are not in the same county can only be granted if the county where the replacement dwelling is located has an ordinance permitting base year value transfers from outside their county. Counties with ordinances accepting base year value transfers from other counties may need to adopt a new ordinance or amend their current ordinance to include base year value transfers for disabled persons. If the language in the existing ordinance specifically refers to allowing base year value transfers for persons over the age of 55, then a new or amended ordinance is necessary to extend base year value transfer provisions to disabled persons. If the language in the existing ordinance refers to Section 69.5 transfers of base year value in general, a new or amended ordinance may not be necessary. We suggest assessors confer with their county counsel to determine whether existing ordinances allow base year value transfers for disabled persons from outside their county.

QUALIFICATION REQUIREMENTS

Among other requirements, the claimant(s) cannot have previously received Section 69.5 property tax relief on either a disability or age basis. The following conditions must also be met:

Severely and Permanently Disabled

At the time the original property is sold, the owner or the owner's spouse must be severely and permanently disabled as defined in Section 74.3. This section defines a "severely and permanently disabled person" as:

> " . . . any person who has a physical disability or impairment, whether from birth or by reason of accident or disease, which results in a functional limitation as to employment or substantially limits one or more major life activity of that person, and which has been diagnosed as permanently affecting the person's ability to function, including but not limited to, any disability or impairment which affects sight, speech, hearing, or the use of any limbs."

Proof of a severe and permanent disability is required. The proof must be in the form of a certification signed by a licensed physician or surgeon of appropriate specialty attesting that the claimant is severely and permanently disabled. The State Board of Equalization has developed a suggested form for the certification. The form should be available by June 1, 1991.

Claim Forms

Along with disability certification, either of the following must be provided:

(1) A certification by a licensed physician or surgeon giving the specific reasons why a new residence is needed along with the disability-related requirements of a new residence, including any locational requirements, such as climate. The claimant must then substantiate that the replacement dwelling he/she has purchased meets those identified requirements and that the primary reason for purchasing the residence is to satisfy disability-related requirements.

or

(2) A statement by the claimant that the primary purpose for purchasing the replacement residence is to alleviate financial burdens caused by the disability.

To receive the property tax benefit the claimant must submit, within three years of the date the replacement dwelling is purchased or newly constructed, a completed claim form and a certification that the claimant is severely and permanently disabled. The owner must occupy the replacement dwelling as his or her principal place of residence at the time he or she files the claim. Claim forms developed by the State Board of Equalization should be available by June 1, 1991.

Replacement Property

The replacement property must be purchased or newly constructed on or after June 6, 1990.

The replacement property must be equal or lesser in value as compared to the original property. Equal or lesser in value is defined as:

100 percent of the market value of the original property if the replacement dwelling is purchased before the original property is sold.

105 percent of the market value of the original property if the replacement dwelling is purchased within one year after the original property is sold.

110 percent of the market value of the original property if the replacement property is purchased within the second year after the original property is sold.

Original Property

The original property must be sold within two years of the date the replacement property is purchased or newly constructed.

The original property must have been eligible for the homeowners' exemption because the claimant(s) owned and occupied the property as his or her principal residence, either at the time of its sale or within two years of when the replacement dwelling is acquired.

The sale of the original property must be a change in ownership for property tax purposes which subjects the property to reappraisal at fair market value. An exception to reassessment at market value occurs if the new buyer of the property has transferred a base year value to the property as a qualified "replacement dwelling" according to the provisions of Section 69.5.

If you have questions on the material discussed in this letter, please feel free to contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

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