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No. 98/35

July 6, 1998

TO COUNTY ASSESSORS:

CHANGE IN FILING REQUIREMENTS FOR REVENUE AND TAXATION CODE
SECTION 63.1, PARENT-CHILD AND GRANDPARENT-GRANDCHILD EXCLUSION

Chapter 941 of the Statutes of 1997 (SB 542) changed the filing requirements for claims for the exclusion from the definition of change in ownership for parent-child and grandparent-grandchild transfers. Under the amendments, claims that are not otherwise timely filed may receive prospective relief. Chapter 941 renumbered Revenue and Taxation Code¹ section 63.1(e) and added paragraph (2). As amended (new language denoted by underlining), subdivision (e) reads:

“(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:

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

(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."

Effective January 1, 1998, the addition of paragraph (2) allows the assessor to grant, on a prospective basis, the parent-child and grandparent-grandchild change in ownership exclusion if the claim is filed *after* the conclusion of the filing periods described above (i.e., within three years after the purchase or transfer or within six months after the date of mailing of a notice of supplemental or escape assessment). Thus, taxpayers who previously had filed untimely may now refile and receive prospective relief. In addition, a taxpayer who never filed may now file a claim and receive prospective relief if all the other requirements of section 63.1 are met. The amendments apply only to properties which have not been transferred to third parties.

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 July 1 of the calendar year in which the claim is filed. Here are two examples:

Claims filed untimely prior to January 1, 1998

1. Claim must be *refiled* after January 1, 1998.
2. If all eligibility requirements of section 63.1 are met, the exclusion is applied as of the lien date of the assessment year in which the claim is refiled.

Example: A change in ownership resulting from transfer of principal residence from parent to child occurs in 1990 and the assessor promptly mails a notice of supplemental assessment. A claim for the parent-child exclusion is filed in 1994, after the deadline for timely-filed claims. The

claim is refiled in 1998 and all other eligibility requirements are met. The exclusion is effective for the January 1, 1998 lien date and subsequent years.

First-time claims filed untimely after January 1, 1998.

1. Claim may be filed at any time.
2. If all eligibility requirements of section 63.1 are met, the exclusion is applied as of the lien date of the assessment year in which the claim is filed.

Example: A change in ownership resulting from the transfer of a principal residence from a parent to child occurs in 1995 and the assessor promptly mails a notice of supplemental assessment. A claim for the parent-child exclusion is filed in 1999, beyond the specified filing period, but the claimant may receive prospective relief. If all other eligibility requirements are met, the exclusion is effective for the January 1, 1999 lien date and subsequent years.

Claims that are filed after the roll has closed will require roll corrections and refunds.

Calculation of Prospective Relief Value. Under section 63.1(e)(2)(B), the value to be enrolled for any claim granted pursuant to these provisions should be the factored base year value on the roll when the transfer that is now being excluded from change in ownership occurred, factored forward for inflation to the current year. The factored base year value of any new construction which occurred between the transfer date and the date that the prospective relief is being applied should also be added.

Example: A change in ownership resulting from the transfer of a principal residence from a parent to child occurs in October 1994. The factored base year value of the property on the 1994-95 roll at the time of the transfer was \$78,452. The assessor sets a new base year value at \$250,000 and promptly mails a notice of supplemental assessment. A claim for the parent-child exclusion is filed in 1998, beyond the specified filing period, but the claimant may receive prospective relief. If all other eligibility requirements are met, the exclusion is effective for the January 1, 1998 lien date and subsequent years. The value to be enrolled for the January 1, 1998, lien date is \$83,508 (the \$78,452 base year value factored forward by the inflation factor for each of the intervening years) plus the factored base year value of any new construction.

<i>Year</i>	<i>Factored Base Year Value</i>	<i>Factor</i>
1994-95	\$78,452	x 1.0119
1995-96	\$79,385	x 1.0111
1996-97	\$80,266	x 1.02
1997-98	\$81,871	x 1.02
1998-99	\$83,508	---

Purpose and Intent. The purpose of the bill that enacted these amendments was to ensure that taxpayers are not permanently barred from receiving a constitutionally authorized benefit.

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

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bill or sending individual letters to taxpayers who were previously denied claims due to late filing. The Board's Taxpayers' Rights Advocate's Office and Legislative Division are collaborating on a press release notifying taxpayers of these new filing provisions.

Conclusion. Please note that these amendments do *not* eliminate the filing deadlines. Claims must be filed timely to receive relief retroactive to the date of the transfer. If claims are not filed timely, 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,



Richard C. Johnson
Deputy Director
Property Taxes Department

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