



STATE BOARD OF EQUALIZATION
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E. L. SORENSEN, JR.
Executive Director

January 18, 2000

No. 2000/005

TO COUNTY ASSESSORS:

CHANGE IN FILING REQUIREMENTS FOR SECTION 63.1
(PARENT/CHILD) EXCLUSION

Chapter 941 of the Statutes of 1999 (Senate Bill 1231, Senate Revenue and Taxation Committee) changed the filing requirements for claims for the exclusion applicable to transfers between parents and children. Effective January 1, 2000, newly added paragraph (4) of subdivision (e) of section 63.1 of the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation Code unless otherwise indicated) provides that a transfer to a parent or child of the transferor shall not be considered a "transfer to a third party."

Under current law, a claimant must file within three years of the date of the transfer for which the claim is being filed, or before a transfer to a third party, whichever is earlier, in order to receive relief as of the date of the transfer. Alternatively, a claim is also deemed to be filed timely if it is filed within six months after the date of a notice of supplemental or escape assessment. Finally, a claim for *prospective* relief may be filed at any time after the exhaustion of these deadlines provided that the property has not been transferred to a third party.

Chapter 941 modifies these requirements by providing that a transfer to a parent or child of the transferor shall not be considered a transfer to a third party. The particular instance that raised this issue involved a mother who bequeathed her home to her adult daughter. The daughter did not know of the parent-child exclusion and had, in turn, transferred the property to her own child (the grandchild). When the grandchild filed a claim to revert the property's assessed value to the *grandmother's* base year value on a prospective basis, the assessor correctly denied the claim on the grounds that the transfer to the grandchild was considered a "transfer to a third party" for purposes of the filing period that applied to the transfer to the adult daughter. By excluding from the definition of "transfer to a third party" any transfer between parents and children, Chapter 941 permits relief in cases such as this.

Please note, however, that this amendment does *not* exclude the intermediary transfer from the filing requirements. Thus, in unrestricted transfers from grandparent-to-parent-to-grandchild, claims must be filed by *both* the parent *and* the grandchild to exclude both transfers from reappraisal. The parent's filing period is not foreclosed by the subsequent transfer to the grandchild, since this transfer is not considered a transfer to a third party. However, until the parent *does* file a claim, the base year value that is set as of the date the parent acquired the property would remain intact.

The grandchild's filing period, meanwhile, is within three years of the second transfer or before a transfer to a third party, whichever is earlier, or within six months of a notice of supplemental or escape assessment on the second transfer in order to receive retroactive relief. If both the parent *and* the grandchild file claims, then both transfers may be excluded from change in ownership as long as the grandchild has not transferred the property to a third party that is not eligible for the parent-child exclusion. Finally, the grandchild may file for prospective relief on the transfer from the parent at any time, provided the grandchild has not transferred the property to a third party who is not eligible for the parent-child exclusion.

Please note that if the property being excluded is not a principal residence, and either of the transferors has already used the \$1 million exclusion, then that transfer is not eligible for the exclusion and the property would be reappraised. Thus, in that instance, the grandchild could not receive the grandparent's base year value.

A copy of amended section 63.1(e) is enclosed. If you have any further questions, please contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,

/s/ Richard C. Johnson

Richard C. Johnson
Deputy Director
Property Taxes Department

RCJ/grs

Enclosure

Effective January 1, 2000, section 63.1(e) of the Revenue and Taxation Code is amended:

(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.