



STATE BOARD OF EQUALIZATION
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No. 2011/002

January 13, 2011

TO COUNTY ASSESSORS:

BASE YEAR VALUE TRANSFER – OVER 55/DISABLED:
ELIGIBLE CLAIMANT

Generally, Revenue and Taxation Code section 69.5 provides that any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowners' exemption may transfer the base year value of that property to a replacement dwelling of equal or lesser value that is purchased or newly constructed within two years of the sale of the original property. Property owned by a trust is not expressly addressed in section 69.5 and, as a result, questions have been asked whether a base year value can be transferred if either the original property or the replacement dwelling is held in trust.

Effective January 1, 2011, Senate Bill 1494 (Stats. 2010, ch. 654) amends section 69.5 to expressly provide that the base year value transfer relief applies to property that is held in trust. Specifically, sections 69.5(d) and (g)(11) are amended to read:

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of the original property, as a joint tenant, a tenant in common, or a community property owner, *or a present beneficiary of a trust* subject to the following limitations:...

(g) (11) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind. *"Person" includes an individual who is the present beneficiary of a trust.*

For property tax purposes, the property owner is the person who has the present beneficial interest of trust property (with the exception of a Massachusetts or business trust, which is regarded as a legal entity). The trustee holds legal title to the trust property, but does not have a present beneficial ownership interest unless the trustee is also the trustor of a revocable trust or a named beneficiary of an irrevocable trust. Therefore, an individual who is the present beneficial owner of trust property is considered the claimant for purposes of section 69.5 and should receive the base year value transfer benefit if all of the requirements of the section are met.

If you have any questions regarding these changes to section 69.5, please contact the Assessment Services Unit at 916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

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