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STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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No. 91/31

TO COUNTY ASSESSORS:

SECTION 69.5 BASE YEAR VALUE TRANSFERS
NEW CONSTRUCTION EXCLUSION
AND
CLAIM RESCISSIONS

Sections 2.7 and 3.7 of Chapter 1494 of the Statutes of 1990 (Assembly Bill 3843, Cannella) amend Section 69.5 of the Revenue and Taxation Code. Section 69.5 sets forth the requirements for transferring the base year value from an original property to a replacement dwelling. Chapter 1494, among other things, adds Section 69.5(h)(4) to exclude certain new construction from assessment. The exclusion applies to new construction completed after the filing and granting of a claim for a base year value transfer. The chaptered bill also adds Section 69.5(i) which allows taxpayers to rescind claims for a base year value transfer under certain conditions.

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2.7 has a sunset clause that states the amendments are operative only until January 1, 1999, and as of that date are repealed.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, which also amends Section 69.5 of the Revenue and Taxation Code, becomes operative. This bill was enacted as urgency legislation effective on September 30, 1990. A claim for a base year value transfer in accordance with Section 69.5 is subject to the statutory provisions in effect on the date the claim is filed. Therefore, the date the claim is filed determines whether the amending legislation is applicable.

## NEW CONSTRUCTION EXCLUSION

Currently, the value of new construction performed on a replacement dwelling can be excluded from assessment if the new construction is completed before the taxpayer files a claim for a base year value transfer. The value of the new construction is excluded if the value of the replacement dwelling when acquired together with the value of the new construction when complete meets the "equal or lesser than" value test as defined in Section 69.5(g)(5). If the combined values pass this test, the value of the new construction is considered to be included in the base year value transferred from the original property. However, prior to the effective date of this legislation, new construction completed after the taxpayer filed a claim was subject to additional assessment. When this occurred, a new base year value was established for the new construction. The base year value of the new construction was added to the adjusted base year value transferred from the original property to form a new assessed value.

This legislation extends Section 69.5 benefits to new construction completed after the filing and granting of a claim for a base year value transfer. There shall be no reassessment upon completion of the new construction if the following conditions are met:

(1) The new construction is completed within two years of the date the original property is sold.

(2) The owner notifies the assessor in writing within 30 days of completion of the new construction.

(3) The fair market value of the new construction on the date of completion plus the full cash value of the replacement dwelling on the date of acquisition is not more than the adjusted new base year value of the original property determined when the claim was granted.

When a claim has been filed and granted, the "equal or lesser value" time adjustments in Section 69.5(g)(5) are not to be applied to the original property in determining whether the combined value of the replacement dwelling and the new construction is not more than the full cash value of the original property. The amending legislation specifies that the value for comparison purposes is that found in Section 69.5(g)(7). This section defines the "full cash value of the original property" as its new base year value adjusted by the inflation factor (maximum 2 percent per year) for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

**Example 1: New Construction Completed After Base Year Value Has Been Transferred**

Claim Filed and Granted 6/1/91

| | | | |
|---|---|---|---|
| Original Property: | Sold | 5/1/91 | $100,000 |
| Replacement Dwelling: | Purchased | 4/1/91 | $ 75,000 |
| New Construction: | Completed | 7/1/91 | $ 25,000 |

Original Property's New Base Year Value
on Date the New Construction is Complete: $100,000

The full cash value of the replacement dwelling plus the fair market value of the new construction is not more than the original property's new base year value. Therefore, the new construction would be excluded from assessment.

**Example 2: New Construction Completed After Base Year Value Has Been Transferred (Factoring Involved)**

Claim Filed and Granted 7/1/91

| | | | |
|---|---|---|---|
| Original Property: | Sold | 5/1/91 | $100,000 |
| Replacement Dwelling: | Purchased | 6/1/91 | $ 75,000 |
| New Construction: | Completed | 7/1/92 | $ 25,000 |

Original Property's Adjusted New Base Year Value on Date the New Construction is Complete: $102,000

The full cash value of the replacement dwelling plus the fair market value of the new construction is not more than the original property's adjusted new base year value ($100,000 is less than $102,000). Therefore, the new construction would be excluded from assessment. Note that the "equal or lesser value" time adjustments defined in Section 69.5(g)(5) are not applied.

**Example 3: New Construction Completed After Base Year Value Has Been Transferred (Not Excluded)**

Claim Filed and Granted 6/1/91

| | | | |
|---|---|---|---|
| Original Property: | Sold | 5/1/91 | $100,000 |
| Replacement Dwelling: | Purchased | 4/1/91 | $ 75,000 |
| New Construction: | Completed | 7/1/91 | $ 30,000 |

Original Property's New Base Year Value on Date the New Construction is Complete: $100,000

In this case the full cash value of the replacement dwelling plus the fair market value of the new construction is more than the original property's new base year value. Therefore, the new construction would be subject to assessment. Further, since the statute does not provide for partial relief, 100 percent of the value of the new construction ($30,000) would be given a new base year. The property's new assessed value is the base year value of the new construction plus the adjusted base year value transferred from the original property.

## RESCISSIONS

Effective September 30, 1990, persons who file claims for Section 69.5 transfer of base year value may rescind those claims, if:

* A written notice of rescission is given to the assessor's office where the claim was filed.

* The notice is signed by the original claimant(s).

* The notice is delivered before:

  - The date the county first issues a refund check for the property taxes on the transferred base year value.

  - If a refund is not applicable, before any property taxes are paid on the new transferred base year value.

  - If taxes have not been paid, before any property taxes on the new transferred base year value become delinquent.

The assessor may charge a fee to cover the costs of processing and administering the claim.

If you have any questions regarding this material, 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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