



## Frequently Asked Questions - Exclusions from Reappraisal

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### **Timing**

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### 1. What are Propositions 60 and 90?

Propositions 60 and 90 are constitutional amendments passed by California voters that provides property tax relief for persons aged 55 and over. Implemented by section 69.5 of the Revenue and Taxation Code\*, it allows these persons, under certain conditions, to transfer a property's factored base year value from an existing residence to a replacement residence.

Typically the property tax of a newly purchased or constructed residence is based on its current market value upon change of ownership. However, the provisions of Propositions 60 and 90 may result in substantial tax savings since it allows the adjusted base year value of the original (sold) property to be transferred to the newly purchased or constructed home if eligibility requirements are met.

\* Section 69.5 also sets forth the provisions of [Proposition 110](#) which allows the transfer of a base year value for severely and permanently disabled persons. Except for the disability factor, the qualifications for Propositions 60/90 are same as Proposition 110.

### 2. What is the difference between Proposition 60 and Proposition 90?

Proposition 60 allows transfers of base year values within the same county (intracounty). Proposition 90 allows transfers from one county to another county in California (intercounty) and it is the discretion of each county to authorize such transfers. As of January 2007, only eight counties have passed an ordinance authorizing intercounty transfers; however, it is recommended that you call your assessor for verification as it could change at any time. [See question #18](#) for a list of the eight counties.

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### 3. What are the eligibility requirements for Propositions 60/90?

1. You, or a spouse residing with you, must have been at least 55 years of age when the original property was sold.
2. The replacement property must be your principal residence and must be eligible for the homeowners' exemption or disabled veterans' exemption.



3. The replacement property must be of equal or lesser "current market value" than the original property. The "equal or lesser" test is applied to the entire replacement property, even if the owner of the original property purchases only a partial interest in the replacement property. Owners of two qualifying original properties may not combine the values of those properties in order to qualify for a Proposition 60 base-year value transfer to a replacement property of greater value than the more valuable of the two original properties.
4. The replacement property must be purchased or built within two years (before or after) of the sale of the original property.
5. To receive retroactive relief from the date of transfer, you must file your claim within three years following the purchase date or new construction completion date of the replacement property.
6. Your original property must have been eligible for the homeowners' or disabled veterans' exemption either at the time it was sold or within two years of the purchase or construction of the replacement property.

The original property must be subject to reappraisal at its current fair market value at the time of sale, unless the buyer(s) of your original property also qualify the property as a replacement property for a base year value transfer due to disaster relief or a base year value transfer for a severely and permanently disabled person. Therefore, most transfers between parents and children will not qualify.

This is a one-time only benefit. Once you have filed and received this tax relief, neither you nor your spouse who resides with you can ever file again, even upon your spouse's death or if the two of you divorce. The only exception is that if you become disabled after receiving this tax relief for age, you may transfer the base year value a second time because of the disability, which involves a different claim form.

**4. If I qualify for Proposition 60 benefits, do I still need to file for a homeowners' exemption on the replacement property?**

Yes. The exemption is not granted automatically and must be filed for separately.

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**5. How many times can one receive the benefit of Propositions 60/90?**

As a senior citizen, one may transfer his or her base year value only once, with the *one* exception that if a person first received relief for age and subsequently became severely and permanently disabled *after* the date of the original claim and had to move because of the disability ([Proposition 110](#)), then the base year value may be transferred a second time. The base year value transfer, however, is not available in the reverse situation; if one receives the benefit due to disability, then they cannot subsequently claim the relief for age.

**Claimant**

**6. I am over 55, but my wife is not yet 55. Is she considered a claimant for benefits of Proposition 60? What about other co-owners?**

A claimant is any person claiming Proposition 60/90/110 property tax relief. A claimant must be an owner or co-owner of the original property as a joint tenant, a tenant in common, or a community property owner. A spouse of the claimant is also considered a claimant if the spouse is a record owner of the replacement dwelling (and thus must provide his/her social security number on the claim).

An owner of record of the replacement property who is not the claimant's spouse is *not* considered a claimant, and a claim filed for the property will not constitute use of the one-time-only exclusion by the co-owner even though that person may benefit from the property tax relief.

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7. **My Registered Domestic Partner and I sold a home and purchased a replacement property in 2008. My Partner transferred the base year value under Proposition 60. Since we are registered domestic partners, was I also considered a claimant? If not, will this affect my ability to use the exclusion later?**

As a registered domestic partner, you were not considered a claimant. The fact that your partner used the exclusion will not affect your ability to transfer the base year value later. Proposition 60 provides that "any person over the age of 55 years" includes a married couple one member of which is over the age of 55 years. Since a registered domestic partnership is not a married couple, the registered domestic partner of a claimant is not a spouse and is not considered to have used his/her one-time-only exclusion under section 69.5.

8. **My husband and I are living in a home I inherited from my parents and own as sole and separate property. We want to sell it and transfer its base year value to another home that will continue to be under my name. However, I am only 53 but my husband is 56. Does he need to be a claimant for us to qualify?**

No, the age qualification under Propositions 60/90 requires that either the claimant or the claimant's spouse who resides with the claimant be at least 55. Your husband does not have to be an owner of record of either the original or replacement property. Furthermore, there is no requirement that the original property be "purchased" by the claimant and that acquisition of the original property via a parent-child transfer would not disqualify the base year value transfer you are now seeking.

9. **Would I still qualify for Proposition 60 benefits if I was a few months shy of 55 when my property sold, but over 55 when I purchased my replacement property?**

No, you must be at least 55 when your original property sells. While you may be 54 when you purchase your replacement property, you must be at least 55 when you sell your original property.

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10. **My home is held in a trust in which I am the sole present beneficiary. Can I qualify for Proposition 60 benefits if I sell my home and buy a replacement home that will also be held in trust? In other**

**words, am I a qualified claimant if the transactions are made by me as trustee of the trust?**

You qualify for the benefits if you are the present beneficial owner of the trust, not simply the trustee of the trust. For property tax purposes, the property owner is the person who has the present beneficial interest of a trust. The trustee holds legal title to the trust property but may not necessarily be the present beneficial owner of it.

**11. Can either an original property or a replacement dwelling be owned by a company or legal entity and qualify for relief under Proposition 60?**

**For example, if a home is owned 1/6 by a trust and 5/6 by a corporation, will this property qualify as an original property for purposes of transferring the base year value to a replacement dwelling?**

Section 69.5, the property tax law that implemented Propositions 60/90/110, states that any person that is over age 55 or severely and permanently disabled may transfer a base year value to a replacement property. A "person" is defined as "any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind."

The Board has opined that an original property or a replacement dwelling must be owned, at least in part, by an individual. As long as a portion of the property is owned by an individual, then that individual may qualify as a claimant. If the home is owned in part by a trust, then the individual must have present beneficial interest of the trust in order to qualify. Thus in your example, Proposition 60 benefits would apply if the home is owned 1/6 by a trust and 5/6 by a corporation, if an individual has present to beneficial interest of the trust.

Exceptions to the requirement that an individual must own at least a portion of the original or replacement property occur where an individual owns a lot or unit within a cooperative housing corporation or a manufactured home park and a pro rata interest in a tenant-owned entity that owns the park in which the manufactured home is located. In these circumstances, the base year value of land may be transferred to and from the tenant-owned entities.

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**12. Can my sister and I, both qualified claimants over 55, sell our separately owned and occupied properties and transfer the combined base year values to a single replacement dwelling?**

No, the base year value of only one original property can be transferred to a replacement dwelling. Either you or your sister can be the claimant and you would have to choose which original property you want to be considered for value comparison. The other property would still be available for a Proposition 60/90 base year value transfer at a later date (two years before or after its sale date).

**Value Comparison**

**13. What does "equal or lesser value" of a replacement property mean?**

The market value of the replacement property as of the date of purchase must be equal or less than the



market value of the original property on the date of sale. The meaning of "equal or lesser value" depends on when you purchase the replacement property. In general, equal or lesser value means:

- 100% or less of the market value of the original property if a replacement property were purchased or newly constructed before the sale of the original property, or
- 105% or less of the market value of the original property if a replacement property were purchased or newly constructed within the first year after the sale of the original property, or
- 110% or less of the market value of the original property if a replacement property were purchased or newly constructed within the second year after the sale of the original property.

In determining whether the "equal or lesser value" test is met, it is important to understand that the market value of a property is not necessarily the same as the sale or purchase price. The assessor will determine the market value of each property. If the market value of your replacement dwelling exceeds the "equal or lesser value" test, no relief is available.

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**14. When making the "equal or lesser value" comparison, is a simple comparison of the sales price of the original property and the purchase price of the replacement dwelling all that is needed?**

No, the full cash value of the original property as of the date of its sale must be compared with the full cash value of the replacement property as of its date of purchase or completion of new construction. However, property tax laws presume that the purchase price paid in a transaction is the full cash value unless evidence shows that the real property would not have transferred for that price in an open market transaction.

**15. If the full cash value of the replacement dwelling does not satisfy the "equal or lesser value" test, can a claimant receive partial benefit?**

No. Unless the entire replacement dwelling satisfies the "equal or lesser value" test, no benefit is available. It is "all or nothing." Partial benefits are not granted.

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**16. If an original property has different amenities (i.e. swimming pool) but the replacement property does not, what values are compared to determine qualification? Do you deduct the factored base value of the pool from the original residence to get the value transferred to the replacement residence?**

No, there is no deduction for the pool. In this case, the full cash value of the original property is compared to the full cash value of the replacement property.

However, amenities such as a second residence, living quarters over a detached garage, a detached shop for a business, or an orchard may not qualify for relief under section 69.5. In these cases, the market value will

be allocated and the value assigned to the residence and its land would be used for comparison purposes. The base year value would be similarly allocated.

17. **I want to sell my principal residence valued at \$180,000 and purchase a one-third interest in a property valued at \$360,000. Since my interest in the new property is only valued at \$120,000, which is less than my sale price, can the base year value of my original property be transferred?**

No, comparison of values must be between the total properties involved and not just a fractional interest. Only if the property that is being purchased has a market value of \$180,000 (or less), will the property qualify for the base year value transfer.

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### Qualifying Properties

18. **I plan to relocate from Los Angeles County to San Francisco County, but San Francisco County says they don't allow base year value transfers from another county. I thought there was a law that allows that.**

The law that allows for transfers of base year value between counties merely authorizes each county board of supervisors to adopt an ordinance accepting transfers from other counties. It is the discretion of each county to allow such transfers. The county in which your replacement property is located must have an ordinance that accepts intercounty transfers.

As of January 1, 2012, the following eight counties in California have an ordinance enabling the intercounty base year value transfer:

Alameda	Los Angeles	San Diego	Santa Clara
El Dorado	Orange	San Mateo	Ventura

Since the counties indicated above are subject to change, we recommend contacting the county to which you wish to move to verify eligibility.

19. **Do properties other than single family residences qualify?**

If you meet all other eligibility requirements, relief may be granted for a single family residence, condominium, unit in planned development, cooperative housing, community apartment, manufactured home subject to local real property tax, or living unit within a larger structure consisting of both residential and non-residential accommodations. Although a vessel or a mobile home subject to annual vehicle license fee is eligible for the exemption, neither qualifies as an original or a replacement property as they do not have base year values.

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**20. May I sell my original home to my child and give my child the benefit of the parent-child exclusion and still transfer my base year value when I purchase a replacement property?**

No. You must choose which exclusion you wish to apply your base year value. If you sell to your child and choose to transfer your base year value using the parent-child exclusion, then the base year value is no longer yours to transfer to a replacement property. An original property must be sold and subject to reappraisal at full market value, unless the buyer also is claiming benefits via a base year value transfer.

**21. Will the transfer of an original property or acquisition by gift or devise qualify under section 69.5?**

A property that is given away or acquired by gift or devise will not qualify because nothing of value was exchanged. Section 69.5 requires a "sale" of the original property and a "purchase" of a replacement dwelling. Sale and purchase are statutorily defined as a change in ownership for consideration. This is a two-part test:

(1) the property must be subject to change in ownership and (2) something of value must be exchanged for the property.

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**22. I co-own and live in a house shared with another co-owner. Can we sell this original property and each still qualify for the claim if we both buy separate replacement dwellings?**

No. Only one of you can receive the benefit. Assuming you both qualify, you must decide between yourselves who will get the benefit. Only in the case of a multiple unit original property where several co-owners qualify for separate exemptions may portions of the factored base year value of that property be transferred to several replacement dwellings.

**23. Can I sell my original property and purchase a 50 percent interest in a friend's house and still qualify?**

No. A partial or fractional interest purchase is not eligible, unless you and your friend together purchase the house. The entire interests in both the replacement and the original property must be purchased and sold.

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**24. If an original property has a separate living unit on the property (i.e. in the back or over a detached garage), what portion or value of the original property will qualify to determine qualification of the replacement property?**

If the original property has a separate living unit that is used as a rental, its full cash value would be allocated between the main residence and the rental unit and only the value of the unit the claimant occupies would be compared to the value of the replacement dwelling. The factored base year value being transferred would be adjusted for both the separate unit and that portion of land used to support the second unit. A unit would be considered separate from the main residence if it has its own kitchen, bathroom facilities, and entrance and is used for purposes incompatible with the homeowners' exemption.

The market value of the separate living unit (land and improvements) would be deducted from the market value of the total property. Only the amount of the indexed base year value allocated to the original residence would be transferred.

If, however, the separate living unit is used solely as a guest house, it may be considered part of the principal residence and the full cash value of the entire property may be transferred to the replacement property, even if the new property does not have such a separate living unit.

## Principal Place of Residence

### 25. **Do I need to be receiving the homeowners' exemption on my original property when it is sold?**

No. The original property must be eligible for the homeowners' exemption because you own it and because it was your principal place of residence, either

1) at the time of its sale or

2) within two years of the purchase or new construction of the replacement dwelling.

If you did not have the homeowners' exemption on your property, you may need to provide documents to the assessor that prove it was your principal place of residence. Proof of residency may include voter or vehicle registration, bank accounts, or income tax records.

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## Original / Replacement Properties

### 26. **I co-own a duplex with another person and we each live on one side. Can we sell the duplex and each buy separate replacement dwellings and qualify for section 69.5 benefits?**

Yes, but the equal or lesser value comparison must be made between each side of the duplex with each of your replacement dwellings. If the total value of the duplex is \$400,000, but your side is smaller with fewer bedrooms and baths and the value of your side is \$175,000, then your replacement dwelling may not exceed your allocated value of the duplex. It is not a simple division of value by one-half.

### 27. **What is meant by "area of reasonable size" as it applies to either the original property or the replacement dwelling?**

An "area of reasonable size" that is used as a site for a residence includes all land within the parcel provided that any nonresidential uses of the property are merely incidental to the use of the property as a residential site. For example, if a claimant sold a home located on a 9,000 square foot lot and replaced it with a home located on a 20-acre parcel, the base year value transfer would qualify as long as the 20-acre parcel was used only for a residential site and incidental uses as a residential site. For example, any commercial use (i.e. crops, raising cattle, etc.) would disqualify that portion of the land.

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**28. I am selling a property that has my home on it but it is restricted by a Williamson Act contract. Can I transfer the base year value from this property to a replacement property under section 69.5?**

Open space land that is enforceably restricted by a Williamson Act contract is assessed under article XIII, section 8, of the California Constitution, and section 421, et seq. These special valuation provisions do not apply, however, to a residence or land of reasonable size that is used as a site for the residence. Instead, a residence and its underlying land are assessed as other residential property under article XIII A (Proposition 13) and are, thus, eligible for the base year value transfer under section 69.5. Similarly, if the replacement property is under a Williamson Act contract, the home and homesite is eligible for the base year value transfer.

**29. Does a residence located in a timberland production zone (TPZ) qualify as an original property on a base year value transfer?**

Yes. Although a property restricted to timberland use is valued under the Timber Yield Tax Law rather than Proposition 13, any residence on this land and land of reasonable size that is used as a site for the residence is valued according to the provisions of Proposition 13 and is, thus eligible for the base year value transfer under section 69.5. Similarly, if a replacement property is a TPZ property, the home and homesite is eligible for the base year value transfer.

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**30. I sold my house which was a historical property and restricted by a Mills Act contract. Can I transfer my restricted value to my replacement property?**

If the home you purchased was of equal or lesser value than the home you sold and all the other requirements of section 69.5 are met, then the base year value (Proposition 13 value, not the Mills Act restricted value) can be transferred to your replacement property.

**31. Can I transfer the base year value of my single family residence to a licensed manufactured home and purchased lot?**

You may transfer the base year value of your original property to the land in which the licensed manufactured home is situated and any miscellaneous improvements taxed as real property. The original property base year value land and improvements should not exceed the combined market value of replacement property land and any miscellaneous improvements. If the licensed manufactured home is converted to local property tax status, it will be eligible for section 69.5 benefits along with the land and miscellaneous improvements after it is placed on the assessment roll (i.e., after the next January 1—the lien date). At that time, any unallocated portion of the base year value of the original property should be applied and enrolled.

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**32. Would I be able to transfer the base year value from my original single family residence and lot to a replacement property that consist of a single family residence on leased land?**

Yes, assuming that all the requirements are met. A leasehold interest in land is considered land owned by you and assumes that you hold a leasehold interest for a term of 35 years or more (including renewal options), regardless of whether the renewal option actually exists.

**33. I am buying a replacement property that consists of two contiguous parcels. Can I transfer the base year value of my original property to both parcels?**

Yes, but only if both parcels comprise an appraisal unit – that is, property that is commonly purchased and sold as a unit. Such properties include property that cannot be separated (i.e. two 5-acre parcels in a 10-acre zone), or if the residence straddles the parcel line, or if the house is on one parcel and the garage on the adjoining parcel, since a garage is normally part of the residential site.

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**34. I purchased three units in a six-unit building and I intend to use all three as my principal place of residence. Can I transfer the base year value to all three units?**

The transfer would be granted only if physical construction is undertaken to convert multiple units into a single merged unit. The construction must be completed within two years of the sale of the original property. In addition to a traditional single family residence, the original or replacement property may be a single unit in a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development.

**35. We are selling our single family property and want to buy a retail store with a living unit upstairs. Will the living unit qualify as the replacement property under section 69.5?**

Yes, the base year value may be transferred to the portion of the property that is the principal place of residence of the owner. For the value comparison test, the full cash value of the total property must be allocated between the living unit and the commercial unit. The base year value may be transferred only to that unit that qualifies for the homeowners' exemption (upstairs unit); the remaining portion should be reassessed at current market value.

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## Sale / Purchase

**36. Before I was married, I lived and owned my own home. I am now selling it and want to buy a 50 percent interest in my husband's home. Would this qualify for a base year value transfer?**

No. Such a purchase is excluded from change in ownership per section 63 because it is a transfer between spouses. Since a transfer between spouses is automatically excluded from change in ownership as a matter of law, a claimant cannot "choose" between sections 63 and 69.5. Accordingly, since the replacement property was not subject to change in ownership, it does not qualify for property tax relief under section 69.5.



37. **I purchased a replacement home for \$200,000 last year but did not sell my original home at that time. The market has slowed down since then and now I am only getting offers for \$185,000 although I expected it to sell it for more than what I paid for my replacement property. What can I do to qualify for the base year value transfer now?**

Since the property you purchased for \$200,000 did not meet the requirements of section 69.5, you did not use the one-time-only benefit and you are paying taxes on the market value of the \$200,000 home. You may purchase another qualifying replacement property, but it must be within two years of the sale of your original home to benefit from the lower base year value.

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38. **My sibling and I own and live in a house. I want to sell my 50 percent interest to him and buy another residence. Can I transfer my portion of the base year value to a new residence?**

No, the law does not provide for transfers of partial interests; only entire interests in the original and replacement properties are permitted. Additionally, the "equal or lesser value" comparison demonstrates a whole-property to whole-property approach. The entire original property is not subject to reappraisal at full cash value at the time of sale because only 50 percent underwent a change in ownership. You and your sibling would need to sell the entire property for you to qualify.

39. **If I sold 50 percent of my property at one point of time and then sold the other 50 percent six months later, can I transfer the base year value to a replacement dwelling?**

Yes, the law requires you to sell the entire original property, but does not specify that the sale must occur in a single sales transaction. The multiple sales of fractional interests comprising all interests of the property must all be completed within two years of the purchase of the replacement dwelling. Each fractional interests is subject to reappraisal and for the purpose of value comparison, the full cash value of the original property would be determined by adding the fair market value of each interest sold as of its date of sale plus any applicable inflationary adjustments for that interest from the date of its sale.

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40. **If I sold my original property and purchased 50 percent of my replacement property at one point of time and then purchased the other 50 percent six months later, can I transfer the base year value to the replacement dwelling that I purchased in increments? Which date would be used to compare the full cash value with the original property's full cash value?**

Yes, the law requires you to sell the entire original property, but does not specify that the sale must occur in a single sales transaction. The multiple sales of fractional interests comprising all interests of the property must all be completed within two years of the purchase of the replacement dwelling. Each fractional interests is subject to reappraisal and for the purpose of value comparison, the full cash value of the original property would be determined by adding the fair market value of each interest sold as of its date of sale plus any applicable inflationary adjustments for that interest from the date of its sale.

## New Construction

### 41. **If a replacement home is newly constructed, what is the date of completion?**

The date of completion of a newly constructed replacement home shall be the date that the property has been inspected and approved for occupancy by the local building department, or, if there is no such inspection and approval procedure, when the prime contractor has fulfilled all of the contractual obligations. If inspection and approval procedures are non-existent and there is no prime contractor, the date of completion is when outward appearances clearly indicate it is immediately usable for the purpose intended.

The construction on replacement property must be completed within two years of the sale of the original property to qualify for Proposition 60/90/110 tax relief.

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### 42. **Is there any extension of the two-year period after I sell my home if construction on my new home is delayed due to unforeseen circumstances beyond my control?**

Regardless of the reason, if the new construction is not completed within two years, the property will not qualify for property tax relief. There is no provision for exceptions due to hardship or other factors which may have prevented compliance with the two-year time period from the date of sale of the original property.

### 43. **I purchased a lot to build a replacement house within two years of the sale of my original home but my house will not be completed until three years after the sale. Can I still transfer my base year value?**

No, the replacement home will not qualify for relief under section 69.5 because the new construction was not completed within two years of the sale of the original property. It does not matter when the lot was purchased.

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### 44. **If I make an improvement to my replacement home after I transferred the base year value to it, can I get additional tax relief for the new construction?**

Yes, provided (1) the construction is completed within two years of the sale and (2) the full cash value of your new construction plus the market value of your replacement home when purchased does not exceed the market value of the original property as determined for the original claim. You must notify the assessor in writing within 30 days after completion of the new construction.

### 45. **I purchased a lot six years ago with the expectation of building my retirement home. I plan to start construction next year. If construction is completed within two years of the sale of my original home, will the new home qualify for the base year value transfer?**

Yes. The date of your lot purchase has no bearing on the qualifying time period for base year value transfers.

Section 69.5, subdivision (h)(1) provides that a base year value shall be transferred as of the *latest* qualifying date:

- the date the original property sold;
- the date the replacement property is purchased;
- the date the new construction of the replacement property is completed.

Thus, if your new home is completed within two years of the sale of your original home the time period requirement will be satisfied.

The full cash value of the lot and improvements as of the date of completion of new construction must be equal to or less than the full cash value of the original property as of the date of sale.

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46. **I sold my original property in October and am building a new home as my replacement property. Construction will not be completed until the following April. I qualify for Proposition 60 relief when the home is completed, but is there any relief for the assessment of the partially completed home on January 1?**

No. Section 71 provides that new construction in progress on the lien date is appraised at its full cash value. Section 69.5 provides that a base year value is transferred as of the *latest* qualifying date:

- when the original property is sold;
- when the replacement property is purchased;
- when new construction of the replacement property is completed.

Since the base year value cannot be transferred until the residence is completed and all the qualifications are met, the assessment of the partially completed residence on the lien date would not be affected. The property under construction as of lien date will be assessed at market value.

47. **I purchased and moved into another residence in March 2003 and completed an addition on it in September 2003. I rented my original property and then sold it in July 2005. Can the base year value be transferred to the replacement property?**

No. Over two years have elapsed since the time you purchased your replacement property and when you sold your original property. The completion of the addition was within two years but it is not a qualifying date for the tax relief.

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48. **If I purchased a lot five years ago and completed building my own home this year, how is the new**

**construction valued? For base year value transfer purposes, is there a separate value for the land as of the date of purchase for value comparison?**

The full cash value of the land and completed improvements must be determined as of the date of completion of new construction. This is not a simple summation of the (factored) purchase price of the lot plus construction costs.

### Damaged Property

49. **I owned and lived in a home that was destroyed in a fire in April 2000. It had a full cash value of \$650,000 and I received \$300,000 in insurance proceeds for it. I eventually sold it in February 2004 for \$250,000 still in its damaged condition. I then found a replacement home in January 2006 for \$700,000. Can my new house qualify for section 69.5 tax relief?**

Yes, your new house qualifies since your replacement home is 110 percent or less than the fair market value of your original home (plus inflationary factoring of 2 percent or less per year between the time of fire and when you purchased the replacement property). Additionally, to qualify, it is assumed that you were 55 when your original property was sold and that the damage was more than 50 percent of its full cash value immediately before the fire.

The base year value to be transferred is the original property's factored base year value just prior to the fire plus inflationary factoring for the period between the fire and the purchase of the replacement property.

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### Timing

50. **I purchased a replacement dwelling in March 2004, which the assessor reappraised as of April 1, 2004. I received two supplemental assessment bills; one for the remaining three months of the 03-04 fiscal year, the other for the entire 04-05 fiscal year. My original property later sold in November 2004 and I filed a claim to transfer the base year value. Is the date of transfer the date I purchased the replacement dwelling? Wouldn't the supplemental assessments be included in the transfer?**

Assuming you meet all the qualifications of section 69.5, the base year value is transferred as of the *latest* qualifying date:

- the date the original property sold;
- the date the replacement property is purchased;
- the date the new construction of the replacement property is completed.

In your case the base year value should be transferred as of November 2004 because that is the latest qualifying date.

You are responsible for the increased taxes from the time the replacement property was purchased until the original property was sold. Thus, any supplemental assessments on the property prior to your November purchase must be paid. The difference between the new base year value and the transferred base year value from November to the end of the fiscal year should be cancelled or refunded.

**51. Does construction of a replacement home need to be completed within two years of the lot purchase?**

No, the replacement lot may be purchased any time, but completion of new construction on the lot must occur within two years of the sale of the original property.

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**52. I purchased my replacement home two years ago, but I have been unable to sell my original property because of the slow market. Can I apply for an extension of the two-year period?**

There is no exception to the two-year time limit. The two-year period to purchase is part of the California Constitution. Since this requirement is in the Constitution, neither the Board of Equalization nor the assessor has the authority to extend this time period, regardless of the circumstances.

### Claim Filing

**53. How do I file for Proposition 60/90 tax relief?**

After both transactions are complete, an application must be filed with the county assessor where the replacement property is located. The claim form, *BOE-60-AH, Claim of Person(s) at Least 55 Years of Age for Transfer of Base Year Value to Replacement Dwelling*, may be obtained from the assessor's office. Some counties offer a downloadable form from their internet website, which can be accessed via the Board's website: [/proptaxes/assessors.htm](#).

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**54. Can I still be granted the exclusion if I file after the three-year filing period?**

Yes, as of January 1, 2007, a claim that is filed after the three-year filing period may receive the benefits commencing with the lien date of the assessment year in which the claim is filed. Retroactive benefits from the date of transfer will not be granted. The full cash value of the replacement property in that assessment year shall be the base year value from the year in which the property was transferred, factored to the assessment year in which the claim is filed. The factored base year value of any new construction which occurred between the date of sale and the date the prospective relief is being applied should also be added.

**55. My father sold his original home and purchased a replacement property. However, he died before filing a claim for the base year value transfer. Could I or the executor of the estate file the claim on behalf of my father?**

No, unfortunately, statute requires that the claimant own and occupy the replacement property as a principal residence *when* the claim is filed. As your father is deceased, the property would not qualify. Normally, the executor of the estate is legally authorized to file a claim for the claimant; however, the claimant must have occupied the residence as his or her principal place of residence, as of the filing date.

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**56. The assessor's office denied my base year value transfer claim because they indicated that my replacement property has a higher value than my original property. Can I appeal?**

Yes. If you do not agree with the full cash value that was placed on the original property and your claim was denied because the replacement property did not meet the value comparison test, the appeals board would have to determine the full cash value of the original property for purposes of qualification. An appeals board has the jurisdiction to hear such an appeal if

- 1) the original property is located in the same county as the replacement dwelling and
- 2) the new base year value of the original property can still be challenged pursuant to section 80 of the Revenue and Taxation Code.

Appeals can be filed with the county assessment appeals board either within 60 days of the date of mailing of the assessment notice (section 1605) or during the regular equalization period (section 1603). A base year value may be appealed during the regular equalization period for the year in which it is placed on the assessment roll or in any of the three succeeding years.

**57. After receiving the notice that my application has been approved for a base year value transfer, will I receive a refund of the taxes I already paid?**

Yes, any overpayments you made will be refunded for the period following the effective date of the base year value transfer (i.e., the latest qualifying transaction).

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## Rescission

**58. My wife and I sold our original property, purchased a replacement dwelling, and filed a base year value transfer claim for it. Now, after nine months, we wish to move to a warmer climate. Can we rescind this claim and re-qualify for section 69.5 benefits on a second replacement property?**

Effective September 30, 1990, you may rescind your claim only if *all* of the conditions are met:

- a written notice of rescission, signed by the original claimant(s), is given to the assessor's office where the claim was filed, and
- if a refund was to result from the original claim, the notice is delivered to the assessor's office *before* the date the county first issues a refund check.
- If a refund is not applicable, and taxes have not been paid, the notice must be delivered *before* any



property taxes are paid on the new transferred base year value.

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

If either of these conditions is not met, then the claim cannot be rescinded, and the base year value will remain with the first replacement property (section 69.5(i)(2)(A)).

In addition to the above, effective January 1, 2001, a claim may be rescinded if *all* of the following conditions have occurred (section 69.5 (i)(2)(B)):

- the claimant vacated the replacement property as the claimant's principal place of residence within 90 days after the original claim was filed, and
- a notice of rescission, signed by the original claimant(s), is delivered to the office of the assessor within six years after relief was granted.

Rescissions are available under very specific requirements and there are no exceptions or time extensions for extenuating circumstances.

If a claim is successfully rescinded, the taxpayers may purchase another property and file a claim to transfer the base year value to that property. However, the second property must also meet all the requirements of section 69.5 (e.g., it must be purchased within two years of the sale of the original property, and it must meet the equal-or-lesser-value test).

For complete details, you may find this section of the Revenue and Taxation Code on the California Legislative Counsel's website at:

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=rtc&group=00001-01000&file=60-69.5>

#### 59. **I still have questions about Propositions 60/90. Where can I find more information?**

If you still have questions about Propositions 60/90, you may find the answers in [Letter To Assessors No. 2006/010](#) or, you may call the Assessment Services Unit at 916-274-3350.

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