



STATE BOARD OF EQUALIZATION

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Executive Secretary

No. 86/92

December 16, 1986

TO COUNTY ASSESSORS:

PROPOSITION NUMBERS 58 AND 60
IN THE NOVEMBER 4, 1986 GENERAL ELECTION
(RESOLUTION CHAPTERS 61 AND 75
ASSEMBLY CONSTITUTIONAL AMENDMENT NUMBERS 2 AND 5)

Following are brief summaries of two constitutional amendments affecting property taxes that were approved by the voters in the general election on November 4, 1986. Proposition Number 58 (Resolution 61, Amendment Number 2) deals with exclusion of family transfers from change-in-ownership appraisal. Proposition Number 60 (Resolution 75, Amendment Number 5) would allow the transfer of base-year values when qualified senior citizens buy smaller residences.

Both amendments require either implementing or clarifying legislation. Until that occurs many of the obvious questions presented by these two amendments will go unanswered.

PROPOSITION NUMBER 58
(RESOLUTION CHAPTER 61
ASSEMBLY CONSTITUTIONAL AMENDMENT 2)

The passage of ACA 2 (Hannigan) on November 4, 1986 excludes from the terms "purchase" and "change in ownership," for purposes of Section 2 of Article XIII A of the State Constitution, the purchase or transfer of real property between (1) spouses or (2) parents and their children. The interspousal exclusion expressly applies to "the purchase or transfer of real property between spouses since March 1, 1975." This language seems to reflect existing statutory law relating to the exclusion of interspousal transfers. (See Section 14 of Chapter 1141 of the Statutes of 1981.) Since the addition of the interspousal transfer provisions to the Constitution merely reflects the existing statutory framework which has been in existence for some time, assessors should have no problems regarding the implementation date of these provisions. It is a self-executing provision and becomes effective the day after the election, or November 5, 1986.

The second part of this amendment excludes from reappraisal transfers of specified real property between parents and their children. The specified real property must be the principal residence of the transferor and the first \$1,000,000 of the full cash value of all other real property.

In addition to the language excluding transfers between parents and their children from change in ownership, the chapter adds subdivision (i) to Section 2 of Article XIII A, which provides that the amendments to the section, unless specifically provided otherwise (as in the case of the interspousal exclusion) shall be effective for changes in ownership which occur, and new construction which is completed, after the effective date of the amendment. Although the amendment is effective on November 5, 1986 (the day after the election) the exclusion for transfers between parents and their children will be effective after that date, involving transfers that occur on or after November 6, 1986. Although we know the effective date of the provision, we will not be able to determine the full scope of the exclusion as the constitutional amendment provides for further definition by the Legislature by referring to "a purchase or transfer between parents and their children, as defined by the Legislature." Although draft legislation is now available, it is too premature to speculate on its final form. Therefore, we will not comment on the draft at this time. It is available from the Senate Bill Room as Assembly Bill 47 (Hannigan). Thus, until final clarification from the Legislature, some uncertainty as to the applicability of the provisions remain. Obvious qualifying transfers between full biologically related parents and children that occur on or after November 6, 1986 can be processed immediately. In the meantime, we recommend that assessors begin tracking other possible qualifying transfers and changes in ownership that occur on or after November 6, 1986. It is highly probable that once the clarifying legislation is enacted, it will be retroactive to November 6, 1986 for all qualifying transfer events that took place on or after that date. Temporary addendums to forms AH 502 (Change in Ownership Statement) and AH 502A (Preliminary Change of Ownership Report) can be used to gather data to aid in the tracking program. We will provide a suggested format for these addendums in a future letter.

PROPOSITION NUMBER 60
(RESOLUTION CHAPTER 75
ASSEMBLY CONSTITUTIONAL AMMENDMENT 5)

The purpose of this amendent is to provide property tax relief for senior citizens by preventing a property tax increase if the senior citizen sells a residence and buys a smaller one in the same county. The amendment provides an incentive for some people over age 55 to move into smaller homes.

This constitutional amendment authorizes the legislature to provide definitions and procedures whereby a change in ownership or new construction of specified replacement residences for senior citizens would be excluded from reappraisal. The amendment permits a qualified homeowner to carry over to a newly acquired residence the base year value of the former residence. To qualify for this special treatment, the replacement property must be:

- the owner's principal residence.
- of equal or lesser "current market" value than the original property.
- located in the same county as the original property.

- purchased or newly constructed within two years of the sale of the original property.
- purchased by either (a) a person over the age of 55 years or (b) married couple if one spouse is over the age of 55 years.

In addition to the aforementioned qualifications, the following requirements must be met:

- The original property must be eligible for the homeowner's exemption; in other words, it must be the owner's principal residence.
- The owner must elect to transfer the base year value.

In summary, this amendment authorizes the Legislature to implement its provisions; however, until the legislature passes implementing legislation, the amendment has no immediate effect. Assessors will not be able to grant this exclusion until the implementing legislation is adopted. Preliminary legislation has been written to implement this amendment. However, it is in draft form and it would be premature to comment on it at this time. It is available from the Senate Bill Room as Assembly Bill 60 (Elder). In the meantime, we recommend that assessors track and record possible qualifying transfers since it is highly likely that once the implementing legislation is passed, it will be made retroactive to November 5, 1986. Again, temporary addendums to forms AH502 and AH502A can be used. We will provide a suggested format for these addendums in a future letter.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:wpc
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