

Amend Section 69.5 of the Revenue and Taxation Code to permit base year value transfers for persons over 55 and the disabled who live in certain resident-owned mobilehome parks.

Source: Property Taxes Department and Legal Division

Revenue and Taxation Code Section 69.5 provides that persons over the age of 55 years and disabled persons may transfer, subject to many conditions and limitations, the base year value of their primary residence to a newly acquired replacement residence. Section 69.5, subdivision (c) provides the guidelines for base year value transfers for manufactured homes and states that the relief may be available if either the original property or the replacement dwelling, or both, includes a mobilehome, or a mobilehome and any land, owned by the claimant on which the mobilehome is situated.

Additionally, Section 69.5, subdivision (g)(9) and (11) defines "claimant" as any person claiming the Section 69.5 property tax relief and "person" as "any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind." Certain persons own their mobilehome as an individual, but the land on which the mobilehome is situated is owned by a legal entity in which they hold a pro rata ownership interest.

Resident-Owned Mobilehome Parks. Under existing law, Revenue and Taxation Code Section 62.1 excludes certain transfers of mobilehome parks from change in ownership reassessment if the tenants who rent the individual spaces of the park purchase it either directly or through a legal entity owned by the tenant-residents. Section 62.1, subdivision (b) provides that when a resident-owned entity buys the park, if that legal entity does not thereafter convert the form of ownership to condominium, limited equity, or cooperative ownership, then any transfer of the shares of stock or ownership interests in the entity results in a pro rata change in ownership in the park real property for the portion of ownership interests which have transferred. In other words, once the residents who participated in the original purchase of the park sell or otherwise transfer their ownership interests in the park, that particular share in the park would be reassessed to current market value.

Many counties have recently discovered that they have not reassessed these pro rata changes in ownership. During the process of updating the Assessors' Handbook Section 511, Assessment of Manufactured Homes and Parks, and the discovery of these parks, the question arose as to the application of base year value transfers under Section 69.5 in resident owned parks when the park is held by a resident-owned entity. In studying this issue, Board staff opined that when a taxpayer purchases a manufactured home subject to local property taxation and a space in a manufactured home park that is owned by a resident-owned entity, the statute, on its face, reads that only the manufactured home may receive the benefits of Section 69.5 because the purchase of a share in a resident-owned entity would not constitute a purchase of land.

Thus, that particular share in the park would be reassessed to current market value. While Section 69.5 contemplates the situation where a manufactured home is on a lot or space owned by the individual, it does not address the less common situation where the lots or spaces are instead held by a resident-owned legal entity. This legislative proposal would amend Section 69.5 to directly address this particular situation.

This clarification would guarantee that persons over the age of 55 and disabled persons could transfer a base year value of land as well as the improvement to and from manufactured homes parks owned by resident entities.

Claim Deadlines. Beginning January 1, 2002, counties will revalue resident-owned mobilehome parks so that their values reflect any changes in ownership between January 1, 1989 and January 1, 2002 that were not previously reflected in the value of the mobilehome park. (See Assembly Bill 1457 (Stats. 2001, Ch. 772)). Some mobilehome park tenants subject to this reassessment will be precluded from receiving a base year value transfer, even though they are otherwise qualified, because the period to file a claim has expired, which is three years from the date they sold an original property.

This proposal would amend Section 69.5 to allow these residents to file a base year value transfer claim within three years of the reappraisal of the pro rata share of the mobilehome park so that they can receive a base year value transfer.

Manufactured Home Terminology. Also, staff suggests that “manufactured home” be substituted for “mobilehome” to be consistent with the change in the Manufactured Home Property Tax Law (Section 5800 et seq.) made by Chapter 796 of the Statutes of 1991. (The term “Mobilehome Park” will not be changed to “Manufactured Park” because of industry’s objection to the name change.)

Section 69.5(c)(2) of the Revenue and Taxation Code is amended to read:

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant’s replacement dwelling only the base year value of the claimant’s unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant’s original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome manufactured home or a mobilehome manufactured home and any land owned by the claimant on which the mobilehome manufactured home is situated. For purposes of this paragraph, "land owned by the claimant" includes a pro rata interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(i) If the mobilehome manufactured home or the mobilehome manufactured home and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome manufactured home or the base year value of the mobilehome manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the original property of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer to the claimant's replacement dwelling the base year value of the claimant's manufactured home and his or her pro rata portion of the real property of the park. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g).

(ii) If the mobilehome manufactured home or the mobilehome manufactured home and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome manufactured home or the mobilehome manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the replacement dwelling of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the base year value of the claimant's original property to the manufactured home of the claimant and his or her pro rata portion of the park. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

Section 69.5(g)(3) and (g)(4) of the Revenue and Taxation Code is amended to read:

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, "land owned by the claimant" includes an ownership

interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(4) “Original property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the claimant” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

Section 69.5(k) of the Revenue and Taxation Code is amended to read:

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

(2) In the case in which a county assessor corrects a base year value to reflect a pro rata change in ownership of a resident-owned mobilehome park that occurred between January 1, 1989 and January 1, 2002 pursuant to subdivision (b)(4) of Section 62.1 and those potential claimants who purchased or constructed replacement dwellings more than three years prior to the correction and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years of the date of notice of the correction of the base year value to reflect the pro rata change in ownership. This paragraph may not be construed as a waiver of any other requirement of this section.

~~(23)~~ This subdivision does not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

~~(34)~~ The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.