

## CHAPTER 12: PARENT-CHILD AND GRANDPARENT-GRANDCHILD EXCLUSIONS

### OVERVIEW

On November 4, 1986, the voters approved Proposition 58, which, in part, added subdivision (h) to section 2 of article XIII A of the California Constitution. Subdivision (h) provides that the terms *purchased* and *change in ownership* exclude the purchase or transfer of:

1. A principal residence between parents and their children; and
2. The first \$1 million of the full cash value of all real property other than a principal residence between parents and children.

Section 63.1 was added to the Revenue and Taxation Code to implement the parent-child exclusion provisions of Proposition 58. The parent-child exclusion applies to changes in ownership that occur on or after November 6, 1986.

On March 26, 1996, the voters approved Proposition 193, which amended subdivision (h) to allow transfers from grandparents to grandchildren to be excluded from change in ownership if certain members of the intervening parent generation are deceased. Section 63.1 was subsequently amended to reflect these new provisions. The grandparent-grandchild exclusion applies to changes in ownership that occur on or after March 27, 1996.

### ELIGIBLE TRANSFERORS AND TRANSFEREES

Only a transfer between an eligible transferor and an eligible transferee qualifies for an exclusion under section 63.1. An *eligible transferor* is a grandparent, parent, or child of an eligible transferee. An *eligible transferee* is a parent, child, or grandchild of an eligible transferor.

Article XIII A, section 2, subdivision (h) of the California Constitution delegates to the Legislature the task of defining the terms *parent*, *child*, *grandparent*, and *grandchild*. The terms *parent* and *grandparent* are not specifically defined by statute. Rather, the eligible relationships are defined with respect to *children* and *grandchildren*.

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### Equalizing Trust Distributions

Equalization issues may arise when a single property is the primary trust asset and that asset is distributed to one beneficiary. If the trustee has the authority to make a non-pro rata distribution and thus allocate specific assets to an individual beneficiary and the value of the property does not exceed that beneficiary's share of the trust estate, the transfer is considered to be made from the trustor to the beneficiary and eligible for the parent-child exclusion. The value of the property is the market value on the date of the parent-child transfer (typically date of death), less any encumbrances on the property.

Furthermore, unless prohibited by the trust, a trustee who makes a non-pro rata distribution may encumber the property with a loan prior to distributing the property to one beneficiary. The trustee may then distribute the loan proceeds to the other beneficiaries to equalize the value of the distributions to all of the beneficiaries. However, the trustee must be the party encumbering the property and the trustee may not encumber the property with a loan from the beneficiary who will receive the property. The trustee may obtain a loan secured by the property from a third-party lender, such as a bank, or a beneficiary who will not receive the property as part of the trust distribution.

#### ***Example 12-6***

X transfers her unencumbered principal residence to her trust, to be distributed on a share-and-share-alike basis to B and C upon X's death. The trustee is authorized to make non-pro rata distributions.

As of X's date of death, the real property is the only asset and has a fair market value of \$500,000. If the trustee decides to distribute the entire residence to B, the trustee may first borrow \$250,000 from a third party, secured by the residence, and may distribute the loan proceeds to C. The trustee may then distribute the residence, encumbered by the \$250,000 deed of trust, to B; B would have to repay the loan. The encumbrance would equalize the non-pro rata distribution.

If B and C are the children of X, the transfer of the principal residence to B qualifies for the parent-child exclusion if all other requirements are satisfied.

#### ***Example 12-7***

D transfers his real property to his trust to be distributed on a share-and-share-alike basis to children B and C upon D's death. The trustee is authorized to make non-pro rata distributions. Upon D's death, the only asset is the real property with a fair market value of \$500,000. The trustee distributes property to B; B gets a \$250,000 loan and pays C from loan proceeds or pays C \$250,000 from personal funds.

The transfer of the real property to B qualifies for the parent-child exclusion as to B's 50 percent interest in the trust assets. The other 50 percent is a change in ownership as a sibling transfer.

[\(AH 401, Change in Ownership; pages 84 and 90\)](#)

# CLAIM FOR REASSESSMENT EXCLUSION FOR TRANSFER BETWEEN PARENT AND CHILD

NAME AND MAILING ADDRESS

(Make necessary corrections to the printed name and mailing address.)

## A. PROPERTY

ASSESSOR'S PARCEL NUMBER

PROPERTY ADDRESS

CITY

RECORDER'S DOCUMENT NUMBER

DATE OF PURCHASE OR TRANSFER

PROBATE NUMBER (if applicable)

DATE OF DEATH (if applicable)

DATE OF DECREE OF DISTRIBUTION (if applicable)

The disclosure of social security numbers is mandatory as required by Revenue and Taxation Code section 63.1. [See Title 42 United States Code, section 405(c)(2)(C)(i) which authorizes the use of social security numbers for identification purposes in the administration of any tax.] A foreign national who cannot obtain a social security number may provide a tax identification number issued by the Internal Revenue Service. The numbers are used by the Assessor and the state to monitor the exclusion limit.

## B. TRANSFEROR(S)/SELLER(S) (additional transferors please complete "C" on the reverse)

1. Print full name(s) of transferor(s) \_\_\_\_\_
2. Social security number(s) \_\_\_\_\_
3. Family relationship(s) to transferee(s) \_\_\_\_\_  
If adopted, age at time of adoption \_\_\_\_\_
4. Was this property the transferor's principal residence? ☐ Yes ☐ No  
If **yes**, please check which of the following exemptions was granted or was eligible to be granted on this property:  
☐ Homeowners' Exemption ☐ Disabled Veterans' Exemption
5. Have there been other transfers that qualified for this exclusion? ☐ Yes ☐ No  
If **yes**, please attach a list of all previous transfers that qualified for this exclusion. (This list should include for each property: the County, Assessor's parcel number, address, date of transfer, names of all the transferees/buyers, and family relationship. Transferor's principal residence must be identified.)
6. Was only a partial interest in the property transferred? ☐ Yes ☐ No If **yes**, percentage transferred \_\_\_\_\_ %
7. Was this property owned in joint tenancy? ☐ Yes ☐ No
8. If the transfer was through the medium of a will and/or trust, you **must** attach a full and complete copy of the will and/or trust and all amendments.

## CERTIFICATION

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true and correct to the best of my knowledge and that I am the parent or child (or transferor's legal representative) of the transferees listed in Section C. I knowingly am granting this exclusion and will not file a claim to transfer the base year value of my principal residence under Revenue and Taxation Code section 69.5.

SIGNATURE OF TRANSFEROR OR LEGAL REPRESENTATIVE ▶	PRINTED NAME	DATE
SIGNATURE OF TRANSFEROR OR LEGAL REPRESENTATIVE ▶	PRINTED NAME	DATE
MAILING ADDRESS		DAYTIME PHONE NUMBER (      )
CITY, STATE, ZIP		EMAIL ADDRESS

(Please complete applicable information on reverse side.)

THIS DOCUMENT IS NOT SUBJECT TO PUBLIC INSPECTION

**C. TRANSFEREE(S)/BUYER(S)** (additional transferees please complete "C" below)

1. Print full name(s) of transferee(s) \_\_\_\_\_

2. Family relationship(s) to transferor(s) \_\_\_\_\_

If adopted, age at time of adoption \_\_\_\_\_

If stepparent/stepchild relationship is involved, was parent still married to or in a registered domestic partnership (*registered means registered with the California Secretary of State*) with stepparent on the date of purchase or transfer? ☐ Yes ☐ NoIf **no**, was the marriage or registered domestic partnership terminated by: ☐ Death ☐ Divorce/Termination of partnershipIf terminated by death, had the surviving stepparent remarried or entered into a registered domestic partnership as of the date of purchase or transfer? ☐ Yes ☐ NoIf in-law relationship is involved, was the son-in-law or daughter-in-law still married to or in a registered domestic partnership with the daughter or son on the date of purchase or transfer? ☐ Yes ☐ NoIf **no**, was the marriage or registered domestic partnership terminated by: ☐ Death ☐ Divorce/Termination of partnershipIf terminated by death, had the surviving son-in-law or daughter-in-law remarried or entered into a registered domestic partnership as of the date of purchase or transfer? ☐ Yes ☐ No

3. ALLOCATION OF EXCLUSION (If the full cash value of the real property transferred exceeds the one million dollar value exclusion, the transferee must specify on an attachment to this claim the amount and allocation of the exclusion that is being sought.)

**CERTIFICATION**

*I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true and correct to the best of my knowledge and that I am the parent or child (or transferee's legal representative) of the transferors listed in Section B; and that all of the transferees are eligible transferees within the meaning of section 63.1 of the Revenue and Taxation Code.*

SIGNATURE OF TRANSFEREE OR LEGAL REPRESENTATIVE ▶	PRINTED NAME	DATE
MAILING ADDRESS		DAYTIME PHONE NUMBER ( )
CITY, STATE, ZIP		EMAIL ADDRESS

**Note:** The Assessor may contact you for additional information.**B. ADDITIONAL TRANSFEROR(S)/SELLER(S)** (continued)

NAME	SOCIAL SECURITY NUMBER	SIGNATURE	RELATIONSHIP

**C. ADDITIONAL TRANSFEREE(S)/BUYER(S)** (continued)

NAME	RELATIONSHIP

**CLAIM FOR REASSESSMENT EXCLUSION FOR TRANSFER BETWEEN PARENT AND CHILD**

Revenue and Taxation Code, Section 63.1

**IMPORTANT:** In order to qualify for this exclusion, a claim form must be completed and signed by the transferors and a transferee and filed with the Assessor. A claim form is timely filed if it is filed within three years after the date of purchase or transfer, or prior to the transfer of the real property to a third party, whichever is earlier. If a claim form has not been filed by the date specified in the preceding sentence, it will be timely if filed within six months after the date of mailing of a notice of supplemental or escape assessment for this property. If a claim is not timely filed, the exclusion will be granted beginning with the calendar year in which you file your claim. Complete all of Sections A, B, and C and answer each question or your claim may be denied. Proof of eligibility, including a copy of the transfer document, trust, or will, may be required. In situations where all information is not known by the due date, the parties should file this claim with as much information as possible, and later amend the claim with any revised information. **Please note:**

1. This exclusion only applies to transfers that occur on or after November 6, 1986;
2. In order to qualify, the real property must be transferred from parents to their children or children to their parents;
3. If you do not complete and return this form, it may result in this property being reassessed.
4. California law provides, with certain limitations, that a "change in ownership" does not include the purchase or transfer of:
  - The principal residence between parents and children, and/or
  - The first \$1,000,000 of the factored base year value of other real property between parents and children.

**NOTE:** Effective January 1, 2009, Revenue and Taxation Code Section 63.1(j) allows a county board of supervisors to authorize a one-time processing fee of not more than \$175 to recover costs incurred by the county assessor due to the failure of an eligible transferee to file a claim for the parent-child change in ownership exclusion after two written requests have been sent to an eligible transferee by the county assessor.