

PRINCIPAL RESIDENCE (Contd.)

200.0089 Purchase. If A and B divorce and sell their former home, neither may transfer the base year of that property to a property owned by a new spouse. Should the new spouse grant A and B an ownership interest in the second property, and assuming all other requirements of Revenue and Taxation Code Section 69.5 are met, the divorced spouse grantee would not qualify as a purchaser. C 1/22/88



STATE BOARD OF EQUALIZATION

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(PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 324-6594

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Executive Secretary

January 22, 1988

Dear Mr. (REDACTED)

This is in response to your letter to me of December 28, 1987 in which you request an opinion as to the applicability of Proposition 60 under the following facts contained in your letter.

You owned a home in co-tenancy with your ex-wife which was sold in September 1987 for \$348,000. On November 29, 1986 you remarried. Your current wife owned a home when you married her which she had purchased for \$206,000 in 1986. You and your wife are now co-tenants of that home. Both homes are in Los Angeles County. You are over the age of 55.

Proposition 60 was adopted by California voters on November 4, 1986 and permitted the Legislature to provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property eligible for the homeowners' exemption may transfer the adjusted base year value of the property entitled to exemption to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years after the sale of the original property and after the effective date of Proposition 60.

Chapter 186 of the Statutes of 1987 (AB 60) implements Proposition 60 by adding section 69.5 to the Revenue and Taxation Code. *Enclosed for your information is a letter from the Board to county assessors dated September 11, 1987 (No. 87/71) which summarizes the requirements for eligibility under section 69.5 in paragraphs 1 through 7 on pages land 2.

As you can see, the problem in this case is meeting the requirement of paragraph 4 that you purchased your replacement dwelling on or after November 6, 1986 (section 69.5(a) and (i)).

We have taken the position that for purposes of section 69.5, the word "purchase" or "purchased" has the meaning set forth in Section 67 which provides that those words mean "a change in ownership for consideration." See for example Question and answer No. 6 on the enclosed letter to county assessors. Since section 63 provides that interspousal transfers are not changes in ownership, your acquisition of any interest in the replacement dwelling from your current wife would not, in our view, constitute a "purchase" for purposes of section 69.5. Moreover, since it was your current wife and not who purchased the replacement dwelling in 1986, that purchase will not qualify you for eligibility under section 69.5 even if it occurred on or after November 6, 1986.

* All statutory references are to the Revenue and Taxation code unless otherwise indicated.

Accordingly, it is our opinion that section 69.5 is inapplicable to the facts of your case.

If you have further questions regarding this matter, please let us know.

Very truly yours,

Eric F. Eisenlauer
Tax Counsel

RHO: cb
0872D

cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton
Hon. John J. Lynch
Los Angeles County Assessor