



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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No. 91/80

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TO COUNTY ASSESSORS:

MONITORING OF DUPLICATE CLAIMS UNDER
SECTION 69.5 OF THE REVENUE AND TAXATION CODE

This letter is to notify assessors of two changes relating to the Board's monitoring of duplicate claims for base year value transfers under Section 69.5 of the Revenue and Taxation Code. One change results from a revised staff interpretation of existing law, while the other change results from an amendment to Section 69.5.

As you are aware, Section 69.5 sets forth the terms and conditions for base year value transfers by persons who are either over age 55 or severely and permanently disabled. Among these terms and conditions is that persons may receive the relief only once in their lifetime.

In accordance with Section 69.5, county assessors have been reporting quarterly to the Board information needed for the purpose of preventing duplicate claims. The Board has developed a monitoring system which uses information reported by the counties to identify duplicate claims. Once a duplicate claim is identified by us, we will notify the county or counties affected.

Once the Board has identified a duplicate claim, the affected county or counties must investigate the circumstances of the duplicate claim to determine whether relief should be granted. The procedures for investigating duplicate claims are outlined below. An explanation of the two changes referenced above follows the procedures.

Procedures for Investigating Duplicate Claims

Notification of a duplicate claim does not automatically disqualify the claim. Further investigation is necessary as a result of an amendment to Section 69.5 and a revised staff interpretation of existing law.

Step 1

Collect information from both claims.

Step 2

Classify each record owner of the replacement property for the most recently filed claim as either a claimant or a nonclaimant record owner. For claims

filed on forms which were not revised in accordance with our form of May 2, 1990, one suggested method of determining which record owner is the claimant is to review the original claim form and consider only the person listed as the "principal claimant" and their spouse, if the spouse is a record owner of the property, to be claimants. Persons listed as "additional claimants" would then be treated as nonclaimant record owners. Another method would be to contact the parties involved and ask that they specify which record owner is to be considered the claimant.

Step 3

Determine how the duplication occurred.

- A. If the duplication resulted because a nonclaimant record owner of the replacement property for the most recently filed claim received relief previously, then the claim may be granted.
- B. If the duplication resulted because the claimant received relief previously, further investigation of the previously granted base year value transfer is needed.

Classify each record owner of the replacement property for the previously granted base year value transfer as either a claimant or a nonclaimant record owner.

- 1. If the claimant for the most recently filed claim is also the claimant in the previously granted base year value transfer, then deny the claim.
- 2. If the claimant for the most recently filed claim was a nonclaimant record owner for the previously granted base year value transfer, then claims filed on or after September 30, 1990 should be granted.

The law is unclear, however, as to claims filed prior to September 30, 1990. That is, although claims filed timely prior to September 30, 1990 would have been properly denied under the law then in effect, such claims would be eligible under current law, which provides that a claimant may not have received relief previously "as a claimant" (Section 69.5(b)(7)).

Although not free of doubt, these claimants should probably file a second claim, after September 30, 1990, since it is the law in effect at the time of filing that determines a claim's eligibility. Moreover, if these claimants were to refile now, there would probably be no legal basis for denying their refiled claim even if the filing were outside of the three-year limit (or after a transfer to a third party) since they had already filed timely once.

Although a refiling after September 30, 1990 would seem to be required, as indicated above this is unclear. Consequently, you may find it more practical administratively to simply grant such claims now, without a refiling, rather than going through the bureaucratic rigor of having taxpayers refile that which they have already filed.

Revised Interpretation of Section 69.5(g)(9)

Previously, we considered all record owners to be claimants for purposes of monitoring duplicate claims. After careful review, however, we now believe that this position was technically incorrect. It does not appear that the Legislature intended to extend the meaning of the term "claimant" to include all record owners of a replacement dwelling. Section 69.5(g)(9) defines "claimant" as "any person **claiming** the property tax relief provided by this section." (Emphasis added.) This section also provides that, for purposes of determining whether a claimant has previously been granted relief under Section 69.5, the term "claimant" includes the spouse of the person claiming the relief.

Thus, in determining whether the person claiming the property tax relief has previously been granted the benefit provided by Section 69.5, we must distinguish each record owner of the replacement property as either a "claimant" or a "nonclaimant record owner."

A **claimant** is the person filing a claim for a base year value transfer and his or her spouse, if the spouse is a record owner of the replacement dwelling.

A **nonclaimant record owner** is a person who is an owner of record on the replacement property, but who is not filing a claim for a base year value transfer and is not the spouse of the person filing the claim.

Under staff's revised interpretation of the term "claimant," the presence of a nonclaimant record owner who had previously been granted Section 69.5 benefits will not disqualify an otherwise eligible claim.

Amendment to Section 69.5(b)(7)

Chapter 1494 of the Statutes of 1990, effective September 30, 1990, amended Section 69.5(b)(7) to require, as a condition of eligibility, that "[t]he claimant has not previously been granted, as a claimant, the property tax relief provided by this section" (Emphasized portion added by Chapter 1494.) As a result, any otherwise eligible claim filed on or after September 30, 1990 by a claimant who has previously received relief under Section 69.5 as a nonclaimant record owner should be granted. For example, where parents have their children on the title of their replacement dwelling, and the parents claim a base year value transfer, the children do not lose

their eligibility to claim the property tax relief available under Section 69.5 on their own replacement property in the future. This is because the children previously received relief as nonclaimant record owners, not as claimants. For claims filed prior to September 30, 1990, see the earlier discussion under Step 3 of the procedures for monitoring duplicate claims.

Claim Form

The next revision of the claim form for Section 69.5 benefits will not provide space for additional claimants. Information from only one claimant, and his or her spouse if the spouse is a record owner of the property, will be requested to prevent additional record owners from inadvertently using their one-time benefit.

Until the Board-designed form for claiming relief under Section 69.5 can be revised to conform with the amendment and staff's revised interpretation, you may wish to caution taxpayers that only one qualified person and their spouse, if the spouse is a record owner of the property, need provide their signature and Social Security number on the claim. This is already noted in Question C.3 of the current claim form which states that "[a]dditional record owners of replacement property (other than 'principal' claimant and his/her spouse) **need not** identify themselves as a **claimant**; to do so is to use the 'once in a lifetime' benefit as a 'principal' **claimant** as provided by this section." (Emphasis in original.)

Conclusion

As a result of the amendment and the revised interpretation, all duplicate claims reported by the monitoring system must be investigated to determine if the claimant is eligible. Any base year value transfer previously denied because the claim was incorrectly identified as a duplicate claim may now be granted. Base year value corrections and appropriate refunds may be granted under Section 51.5 of the Revenue and Taxation Code.

If you have any questions concerning the filing or reporting requirements for Section 69.5 base year value transfers, please contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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