



Property Tax Exclusions: Proposition 60 Joseph E. Holland, Clerk, Recorder and Assessor

HOW DO I...?

TRANSFER MY ORIGINAL PROPERTY VALUE TO MY REPLACEMENT PROPERTY

One of the main reasons that California voters passed Proposition 13 in June 1978 was to protect themselves against escalating property taxes as the value of their property increased. By establishing base year values that could not go up by more than 2% per year, Proposition 13 kept the owner's property tax increase at a manageable level. Unless there was a change of ownership or new construction, their base year value would not change. One unintended effect of Proposition 13 was to discourage people from changing their residence as their family circumstances evolved as shown in the following example:

Mark, 56, and Maria, 53, wish to sell their four bedroom home on a large lot now that their children are grown and have homes of their own. They have lived in their current home for many years and the 1975 Proposition 13 base year value of \$40,000 has only grown to \$66,000 by 2002. Their property tax bill is approximately \$700 per year. Their home today is worth \$400,000. Mark and Maria have found a townhouse with two bedrooms and no yard for \$370,000 but they are unwilling to make the move because under Proposition 13 this change of ownership will establish a new base year value for the townhouse based primarily on their purchase price and their tax bill will jump from \$700 to approximately \$3,700 per year. They are on a fixed income and cannot afford the additional \$3000 per year in taxes.

To solve this problem California voters passed Proposition 60 in November 1986 that permits people over 55 years of age to sell one home and buy another of equal or lesser value in the same county within two years and take their original Proposition 13 base year value with them.

In the example above, Mark and Maria could move to the townhouse and still pay \$700 per year in property taxes (their total bill may be larger or smaller, however, depending on the tax rate and fees charged at the new residence) plus future increases not to exceed 2%. Only one of the owners has to be over 55 on the date the original house is sold. Depending on the timing of the transactions, equal or lesser value can mean up to 110% per cent of the sale price of the original residence.

To qualify for this program Mark and Maria must file a Claim for Base Year Value Transfer with our office when they have made their move. This office will then issue a supplemental assessment notice that will transfer their base year value to the new residence. The lower base year value cannot be transferred until the original home is sold; so if the replacement home is purchased first, there may be a period when they will have to pay the higher tax. If the new residence had a higher base year value than the home they sold, they will receive a refund check to help them pay the higher taxes until the next full tax year when their former base year value will appear on the regular bill. Adjustments can be made to the transfer if the original home had additional uses such as a vineyard or multiple dwelling units so that the comparison between the original and replacement home values is fair. The over-55 base year transfer can be used only once in a person's lifetime.

Proposition 60 legal reference may be found in the Revenue & Taxation Code Section 69.5. Below you will find the eligibility requirements of Section 69.5:

1. The replacement property must be the owner's principal residence and eligible for the Homeowners' Exemption. The original property, at the time of its sale, must have been eligible for the Homeowners' Exemption, or entitled to the Disabled Veterans' Exemption.
2. The seller of the original residence, or a spouse residing with the seller, must be at least 55 years of age, as of the date that the original property is transferred.
3. The replacement property must be of equal or lesser "current market value" than the original.
4. If the replacement is purchased in Santa Barbara County, the original must be located in Santa Barbara County. Several counties have passed Proposition 90 local option ordinances that will allow a base value to be transferred to that county. If your original property is in Santa Barbara County, and you want to relocate in another county, contact that county for Proposition 90 eligibility.
5. The replacement property must be purchased or newly constructed within two years (before or after) of the sale of the original property.
6. The owner must file an application within three years following the purchase date or new construction completion date of the replacement property.
7. This is a one-time only filing. Proposition 60/90 relief cannot be granted if the claimant, or spouse, was granted relief in the past.
8. Proposition 60/90 relief includes, but is not limited to: single family residences, condominiums, units in planned unit developments, cooperative housing corporation units or lots, community apartment units, mobile homes subject to local real property tax, and owners' living premises which are a portion of a larger structure.
9. In most instances, if more than one owner of an original property is eligible for Proposition 60/90, they must choose among themselves which one will use the benefits.

You must file a claim with the Assessor who will then determine if the transaction qualifies. The claim forms are available at any of our offices in Santa Barbara, Santa Maria and Lompoc or by mail. Please contact one of our offices for assistance.

FOR PUBLIC SERVICE, CALL (805) 568-2550

SI DESEA AYUDA EN ESPAÑOL, LLAME AL NÚMERO (805) 568-2550

COMMONLY ASKED QUESTIONS

Q. If I sell my current residence, can my replacement property be in any county of California and still be eligible for Proposition 60/90 benefits?

A. No. In order to be eligible for Proposition 60/90 benefits your replacement property must be in Santa Barbara County (Proposition 60), or a county that has passed similar Proposition 90 local option ordinances. A county's participation in Proposition 90 is not mandatory and is subject to change. Therefore, you should always contact that county for Proposition 90 eligibility before you purchase your replacement property.

The following is a list of the 7 counties currently participating in Proposition 90 as of January 01, 2004:

1. Alameda 2. Los Angeles 3. Orange 4 San Diego 5. Ventura 6. San Mateo 7. Santa Clara

Q. Can a taxpayer apply for and receive the benefit of Proposition 60 or 90 numerous times during the course of his/her lifetime?

A. No. Only claimants who have not previously been granted this property benefit are eligible. This is a one-time benefit.

Q. Is it true that only one claimant need be at least age 55 as of the date of the sale of an original property in order to qualify?

*A. Yes. The **principal claimant/ occupant or his/her spouse/occupant** must be age 55. Additional record owners need not identify themselves as a claimant; to do so is to use the "once in a lifetime" benefit as a **principal claimant**.*

Q. If I get Proposition 60/90 benefits will I still have to file for a Homeowners' Exemption on the replacement property?

A. Yes. You must file for a Homeowners' Exemption on the replacement property. It is not granted automatically.

Q. My wife and I are currently being divorced. May we split the value on our original dwelling and each transfer one half of the value to our separate replacement dwellings?

A. No. The co-owners must determine between themselves, which one should receive the benefit.

Q. Isn't the Assessor precluded, under Propositions 60 and 90, from issuing supplemental assessments when the factored base year value is transferred from the original property to the replacement property?

A. No. When the replacement property is purchased or newly constructed, the Assessor must issue positive or negative supplemental assessments. The Assessor processes the factored base value of the original property for the replacement property. If this value is higher than the prior value of the replacement property, a positive supplemental assessment is issued and a supplemental tax bill is mailed. If this value is lower than the prior value of the replacement property, a negative supplemental assessment is issued, and a refund is mailed.

Q. Can a mobile home qualify as an original property when a replacement property is acquired?

A. Yes, but only if the mobile home is enrolled as real property. If it is not, then the mobile home is not eligible since there is no real property base-year value to be transferred. In keeping with legislative intent, if a taxpayer were to convert his/her mobile home from vehicle license fee status to real property taxation status, in anticipation of applying for Proposition 60/90, a claim should be allowed assuming the claimant is otherwise qualified.

Q. If I purchase a replacement dwelling and within two years make an addition to the new property, can my new construction qualify also?

A. Yes, as long as the total amount of your purchase and the new construction do not exceed the market value of the original property at the time of its sale.

Q. What is meant by "equal or lesser value" of a replacement property?

A. It depends upon when you purchase the replacement property. In general, "equal or lesser value" means:

100 percent or less of the market value of the original property if a replacement property is purchased **before** an original property is sold.

105 percent or less of the market value of the original property if a replacement property is purchased **within the first year after** an original property is sold.

110 percent or less of the market value of the original property if a replacement property is purchased **within the second year after** an original property is sold.

Q. If an original property is sold for \$100,000, and a replacement property is purchased for \$106,000 less than a year later, does the replacement property qualify for Proposition 60/90 benefits?

A. Assuming that \$100,000 was the market value of the original at the time of sale, and that \$106,000 was the market value of the replacement at the time of the purchase, the answer is **no**. In this case, the replacement property is **totally disqualified**. The replacement property's market value exceeds 105 percent of the original property's market value. In this example, if the market value of the replacement property were \$105,000, the answer would be **yes**.

Q. If the market value of my replacement dwelling slightly exceeds the "equal or lesser value" test compared to the full market value of my original property, can I still receive partial benefit?

A. No. Unless the replacement dwelling completely satisfies the "equal or lesser value" test, no benefit is available. It is "all or nothing."

Q. When making the "equal or lesser value" test comparison, is a simple comparison of the sales price of the original property and the purchase price/cost of new construction of the replacement dwelling all that is needed?

A. No. The comparison must be made using the **full market value** of the original property as compared to the **full market value** of the replacement dwelling as of its date of purchase/completion of new construction. This is important because the sales/purchase price is not always the same as market value. The Assessor must determine the market value of each property, which may differ from sales price.

Q. I owned an original property with several other owners. We recently sold it. Each of us is now buying a new individual replacement dwelling. Can each of us claim Proposition 60/90 benefits?

A. No. Only one of you original owners can claim the benefit for your new replacement dwelling. You must decide among yourselves which one will receive the benefit. That person has to have been eligible for the Homeowners' Exemption.

Q. May I give my original property to my son/daughter and still receive the Proposition 60/90 benefit when I purchase a replacement property?

A. No. The law provides that an original property must be sold for consideration and subject to reappraisal at full market value.

Q. Will the transfer of an original property or a replacement property by gift or devise qualify for property tax relief under Proposition 60/90?

A. No. Proposition 60/90 requires a "sale" of the original property and a "purchase" of a replacement property. "Sale" is defined as "any change in ownership of original property for consideration" and "purchase" is defined as a "change in ownership for consideration".

Q. Can a claimant transfer the factored base year value from an original single family residence to a replacement duplex or multi-unit residence (living in one unit and renting the others)?

A. Yes. The owner could carry the factored base year value of the original property to that portion of the replacement parcel that is his/her principal place of abode, and the land that constitutes a reasonable size to embody a site for the residence. However, that portion comprising the abode must be of equal or lesser value than the original property. The rest of the parcel will be appraised at its market value.

Q. Can two people who separately owned original properties and sold them combine their Proposition 60/90 benefits when they buy one replacement property together?

A. No. Only one of the new owners can claim the Proposition 60/90 benefits, whether they are married or not.

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