

State of California

REVENUE AND TAXATION CODE

Section 63.2

63.2. (a) Notwithstanding any provision of this chapter, beginning on and after February 16, 2021, a change in ownership shall not include, in whole or in part, any of the following purchases or transfers for which a claim is filed:

(1) The purchase or transfer of real property that is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children or between grandparents and their grandchildren, if all of the parents, other than stepparents, of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer.

(A) The transfer is required to be of a principal residence of the transferor, and become the principal residence of the transferee within one year of the transfer.

(B) The transferee shall file for the homeowners' or disabled veterans' exemption within a year of the transfer, and the exclusion shall be removed on the date an eligible transferee, or a subsequent eligible transferee who files for the homeowners' or disabled veterans' exemption within one year, is no longer eligible for either the homeowners' or disabled veterans' exemption.

(C) If applicable, as of the lien date immediately following the date the eligible transferee or subsequent eligible transferee no longer qualifies for the exclusion provided by this section, the base year value established as of the change in ownership date to which the exclusion applied, adjusted annually in accordance with paragraph (1) of subdivision (a) of Section 51, shall be enrolled.

(2) The purchase or transfer is of a family farm of an eligible transferor in the case of a purchase or transfer between parents and their children or between grandparents and their grandchildren, if all of the parents, other than stepparents, of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer.

(A) This exclusion shall apply separately to the transfer of each legal parcel that makes up a family farm.

(B) For purposes of this section, each legal parcel that makes up a family farm shall be deemed to itself be a family farm, except for a legal parcel containing a family home.

(C) A legal parcel containing a family home as described in subparagraph (B) may qualify separately for exclusion under paragraph (1).

(b) The exclusions provided for in this section shall not be allowed unless a claim for the exclusion sought, pursuant to subdivision (f), is filed with the assessor.

(c) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the transferee

and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, the trustee of the transferee's trust, the trustee of the transferor's trust, and the executor or administrator of the transferee's or transferor's estate.

(d) The new taxable value of the family home or family farm shall be the sum of both of the following:

(1) The taxable value of the family home or family farm as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date the principal residence or family farm is purchased or transferred to the transferee.

(2) The applicable of the following amounts:

(A) If the fair market value, as defined in subdivision (a) of Section 110, of the family home or family farm upon purchase by, or transfer to, the transferee is less than the sum of the taxable value described in paragraph (1) plus one million dollars (\$1,000,000), then zero dollars (\$0).

(B) If the fair market value, as defined in subdivision (a) of Section 110, of the family home or family farm upon purchase by, or transfer to, the transferee is equal to or more than the sum of the taxable value described in paragraph (1) plus one million dollars (\$1,000,000), an amount equal to the fair market value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the taxable value described in paragraph (1) and one million dollars (\$1,000,000).

(e) As used in this section, the following terms have the following meanings:

(1) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching 18 years of age.

(E) Any foster child of a state-licensed foster parent, if that child was not, because of a legal barrier, adopted by the foster parent or foster parents before the child aged out of the foster care system. For purposes of this paragraph, the relationship between a foster child and foster parent shall be deemed to exist until terminated by death. However, for purposes of a transfer that occurs on the date of death, the relationship shall be deemed to exist on the date of death.

(2) “Eligible transferee” means a parent, child, grandparent, or grandchild of an eligible transferor.

(3) “Eligible transferor” means a grandparent, parent, grandchild, or child of an eligible transferee.

(4) “Family farm” means any real property under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is defined in Section 51201 of the Government Code as that section read on January 1, 2020.

(5) “Family home” or “principal place of residence” means a dwelling that is eligible for a homeowners’ exemption or a disabled veterans’ exemption as a result of the transferor’s ownership and occupation of the dwelling. “Family home” or “principal residence” includes only that portion of the land underlying the residence that consists of an area of reasonable size that is used as a site for the residence.

(6) “Full cash value” means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(7) “Grandchild” or “grandchildren” means any child or children of the child or children of the grandparent or grandparents.

(8) “Real property” means real property as defined in Section 104. Real property does not include any interest in a legal entity. For purposes of this section, real property includes any of the following:

(A) An interest in a unit or lot within a cooperative housing corporation, as defined in subdivision (i) of Section 61.

(B) A pro rata ownership interest in a mobilehome park, as defined in subdivision (b) of Section 62.1.

(C) A pro rata ownership in a floating home marina, as defined in subdivision (c) of Section 62.5.

(9) “Transfer” includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(f) (1) The State Board of Equalization shall prescribe, after consultation with the California Assessors’ Association, a form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed as follows:

(A) Within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to the transfer of the real property to a third party, or an eligible transferee no longer occupies the residence, whichever is earlier.

(B) Notwithstanding subparagraph (A), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed

subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to both of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply, commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(g) (1) If the assessor notifies the transferee in writing of potential eligibility for exclusion from change in ownership under this section, a certified claim for exclusion shall be filed with the assessor within 45 days of the date of the notice of potential eligibility. If a certified claim for exclusion is not filed within 45 days, the assessor may send a second notice of potential eligibility for exclusion, notifying the transferee that a certified claim for exclusion has not been received and that reassessment of the property will commence unless a certified claim for exclusion is filed within 60 days of the date of the second notice of potential eligibility. The second notice of potential eligibility shall indicate whether a certified claim for exclusion that is not filed within 60 days will be subject to a processing fee as provided in paragraph (2).

(2) If a certified claim for exclusion is not filed within 60 days of the date of the second notice of potential eligibility and an eligible transferee subsequently files a claim and qualifies for the exclusion, the assessor may, upon authorization by a county board of supervisors, require an eligible transferee to pay a one-time processing fee, collected at the time the claim is submitted, and reimbursed by the assessor if the claim is ineligible. The fee shall be subject to the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code and shall not exceed the amount of the actual and reasonable costs incurred by the assessor for reassessment work done due to failure to file the claim for exclusion or one hundred seventy-five dollars (\$175), whichever is less.

(h) (1) After consultation with the California Assessors' Association, the board shall, by emergency regulation, adopt regulations and produce claim forms and instructions necessary to implement this section and Section 2.1 of Article XIII A of the California Constitution.

(2) Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative

Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(Added by Stats. 2021, Ch. 427, Sec. 2. (SB 539) Effective September 30, 2021.)