

REPLACEMENT DWELLING EXCLUSIONS UNDER PROPOSITIONS 60 & 90 & 110

Persons over age 55 or severely and permanently disabled may qualify for property tax savings when they sell their principal home and buy a replacement residence of the same or lower value. To learn how to qualify, read the following basic questions and answers.

WHAT PROPERTY IS TAXABLE?

Proposition 60 amended the California Constitution in November 1986. It allows qualified persons over the age of 55 to transfer the base year values from a former residence (“original property”) to a replacement residence under certain conditions.

Who is a “qualified person”?

First, the claimant must be age 55 or older, and own and occupy the original residential property as the owner’s principal residence as of the date of transfer to a new owner. If the claimant is married and resides there with his spouse, then both spouses qualify if either one of them is at least age 55 as of the date of transfer.

What is a “transfer of the base year value”?

Let’s take this step by step. The base year is the year in which the property or portion thereof is purchased, newly constructed, or a reappraisable ownership change occurs. The base year value, also called “original base year value,” is the full market value of the home in the base year. The full market value is typically determined by either the purchase price or the Proposition 13 value. Proposition 13 was a 1978 amendment of the California Constitution (Article XIII A), aimed at controlling property tax increases. It limited the assessed value of existing homes to 1975-1976 values, limited tax rates to one percent of assessed value (plus any voter-approved surcharges), and limited inflation-based increases to two percent annually. Proposition 13 value is base year value adjusted according to these limits. Thus, the factored base year value of the original residence is the original base year value, adjusted by the annual inflation factor for each taxable year under the current ownership. Proposition 60 allows this value of the original residence to be transferred to the replacement home.

What other “conditions” must be met to qualify?

- Both the original and replacement properties must be located in the same county; and
- The original property must have been eligible for either the homeowner’s exemption (claimant owned and occupied it as principal residence at the time of sale or within two years of the acquisition of the replacement property) or entitled to the disabled veteran’s exemption (veteran with service-related disability and California resident on January 1 of claim year); and
- The replacement dwelling must be of equal or lesser value than the original property; and
- The replacement dwelling must have been acquired or newly constructed within two years before or after the sale of the original property as long as the replacement property was acquired or newly constructed on or after November 6, 1986; and
- The original property must be subject to reappraisal at its current “fair market value” as a result of its transfer, in accordance with Revenue & Taxation Code sections 110.1 or 5803; and
- A claim must be filed within three years of the replacement dwelling purchase or completion of new construction of the replacement dwelling.

What if I jointly own the property with someone who is not my spouse?

The same rule applies. If there are two or more co-owners of a dwelling, all owners qualify if only one owner of record is over 55 and if that owner/claimant occupies the property as of the date of the transfer.

How often can I claim the Proposition 60 benefit?

The benefits of the Proposition 60 exclusion are granted only once in a claimant’s lifetime.

As a co-tenant of the original property with another owner, may I receive a partial benefit if we apply for the exclusion and buy separate replacement home?

No. Only one co-owner of a qualified original property may receive the benefit in this situation. The co-owners must choose between themselves which one will make the claim. The only exception is a multiple-residence original property (such as a duplex), where multiple owners qualify for separate homeowner’s exemptions. In that case, each owner may transfer a portion of the original property’s value to his separate replacement dwelling.

Does Proposition 60 apply if I make a gift of my original property to my children and I buy a replacement?

No. A gift of the original home to the owner’s child, while the owner is alive or through a will upon the owner’s death, does not qualify. The original property must be sold in exchange for something of monetary value (“consideration”) and be subject to reappraisal at full market value at the time of transfer.

What is “equal or lesser value” of the replacement dwelling?

In general, “equal or lesser” than market value of a replacement dwelling has been defined as: 100% of market value of original property as of its date of sale if a replacement dwelling is purchased before an original property is sold; 105% of market value of original property as of its date of sale if a replacement dwelling is purchased the same day or within one year after the sale of an original property; 110% of market value of original property as of its date of sale if a replacement dwelling is purchased within two years after the sale of an original property.

Is it true that a replacement dwelling may be acquired any time within two years (before or after) of the date of sale of the original property?

Yes, provided that the replacement dwelling is acquired on or after November 6, 1986, and not before. An exception occurs when a replacement dwelling lot is acquired before November 6, 1986. If this occurs then as long as the lot was purchased within two years of the sale of original property and the replacement dwelling structure was newly constructed after November 6, 1986, then only the structure portion of the replacement dwelling would be eligible for the benefit. If the purchase of the lot occurred more than two years before the sale of the original property, however, then no benefit may be granted to any portion of the replacement dwelling property.

As sole owner of the original property, may I qualify when I jointly buy a share of a replacement?

Yes, you may, as long as you are otherwise qualified, regardless of how many co-owners buy the replacement. All co-owners will share your benefit, although they need not join in your claim. You may not claim the benefit again, but the others may. (Ref. LTA 91/80)

May one sole owner of a qualified original home and another sole owner of a separate qualified original home apply their separate Proposition 60 benefits to the same replacement residence they buy jointly?

No. Each owner may only receive the benefit of a single claim. The owners may not combine their benefits to buy a replacement dwelling of equal or less value than the combined original value.

PROPOSITION 90: FOR PROPERTIES IN DIFFERENT COUNTIES

Proposition 60 requires that both the old and new homes be within the same county. Proposition 90, adopted in 1988, extends Proposition 60's benefits to homes in two counties,

but only if the county of the replacement property has adopted a county ordinance permitting the local County Assessor to apply the value determined by the County Assessor of the original home.

Which counties grant Proposition 90 exclusions?

As of April 2003, these counties had adopted an ordinance making Proposition 60 benefits available to local replacement dwellings: Alameda, Kern, Los Angeles, Modoc, Orange, San Diego, Ventura, San Mateo, and Santa Clara. For more information, contact the County Assessor in the county where you plan to buy.

PROPOSITION 110: FOR SEVERELY DISABLED PERSONS

Proposition 110 was adopted on June 5, 1990 to extend Proposition 60 to severely disabled persons residing permanently in the property. Also, in existing homes qualified for a homeowner's exemption, certain construction, modifications, or installations intended to increase accessibility for an owner or an owner's severely and permanently disabled spouse, are excluded from reappraisal.

Do I also need to be 55 or older to qualify?

No. Proposition 110 applies regardless of age.

What other conditions must be met?

- The replacement property must be newly built or purchased on or after June 6, 1990; and
- The disability must be properly certified; and
- The claimant must not have previously benefited from a replacement dwelling exclusion. However, an exception applies to successful claimants under Propositions 60 or 90 who later become severely and permanently disabled: they may qualify again, under Proposition 110. (Ref. LTA 97/02, R&T Code 69.5)

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Replacement Dwelling Exclusions:

Propositions 60, 90 & 110

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