

# California Proposition 60 and Proposition 90

## What is Proposition 60?

Prop. 60 was a constitutional amendment approved by the voters of California in 1986. It is codified in Section 69.5 of the **Revenue & Taxation Code**, and allows the transfer of an existing Proposition 13 base year value from a former residence to a replacement residence, if certain conditions are met. This benefit is open to homeowners who are at least 55-years old and are able to meet all qualifying conditions, (see below).

## What is Proposition 90?

Proposition 90 has the same provisions and qualifications as Proposition 60. The difference is that it allows base year transfers from one county to another county in California. The only counties that have adopted an ordinance to allow values from other counties are:

- Alameda
- El Dorado
- Los Angeles
- Orange
- Riverside
- San Bernardino
- San Diego
- San Mateo
- Santa Clara
- Ventura

This list can change at any time. Please contact the local assessor to see if the value of your original property can be transferred to a replacement in that county.

### How do I qualify for these property tax benefits?

- a. **Proposition 60** - Both the original property (former residence) and its replacement must be located in the **same county**.
- b. **Proposition 90** - The original property is located in a **different county** from replacement, (see Proposition 90 information above).
- c. As of the date of transfer of the original property, the seller or a spouse living with the seller must be at least 55 years old.
- d. The original property must have been eligible for the Homeowners' Exemption or entitled to the Disabled Veterans' Exemption.
- e. The replacement dwelling must be of **equal or lesser value** than the original property.
- f. The replacement dwelling must have been purchased or newly constructed on or after 11/06/86.
- g. **Without exception**, the replacement dwelling must be purchased or newly constructed within two years (before or after) of the sale of the original property.
- h. The original property must be subject to reappraisal at its current fair market value as the result of its transfer, in accordance with Sections 110.1 or 5803 of the Revenue and Taxation Code.
- i. **Without exception**, a claim for relief must be filed within three years of the date a replacement dwelling is purchased or new construction of a replacement dwelling is completed to receive the full relief. A claim filed after the three year time period will receive a prospective relief only.

**Is it true that only one claimant, out of several co-owners of a replacement dwelling, need be at least 55 as of the date of sale of an original property?**

Yes, but the claimant must be an owner of record. Either the claimant or his/her spouse must also have been an occupant of the original property and at least 55 years old on the date of sale.

**Can a taxpayer apply for and receive the benefit of Prop. 60/90 more than once?**

No, this is a one-time benefit. You are not eligible if you have been previously granted this benefit.

**What is meant by "equal or lesser value" than the original dwelling?**

In general, "equal or lesser value" means:

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

**105 percent** of the market value of an original property if a replacement dwelling is purchased within one year after the sale of the original property.

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

**Is the "equal or lesser value" test a simple comparison of the sales price of the original property and the purchase price or cost of new construction of the replacement dwelling?**

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

**If the current full cash value of my replacement dwelling slightly exceeds the full market value of my original property, can I still receive a partial benefit?**

No. Unless the replacement dwelling satisfies the "equal or lesser value" test, no benefit is available.

**May I give my original property to my child and still receive the Prop. 60/90 benefit when I purchase a replacement property?**

No. The law provides that an original property must be sold for consideration and subject to reappraisal at full market value at the time of sale. Original property transferred to a child or disposed of by gift or devise does not qualify.

**Is the Assessor prevented from issuing supplemental assessments when the factored base-year value is transferred from an original property to a replacement dwelling under Prop. 60?**

No. When the replacement dwelling is purchased or newly constructed, the Assessor is required by law to issue supplemental assessments (positive or negative) for all transactions that result in a base year value change, including those that qualify under Prop. 60. (**Revenue and Taxation Code Section 75**).

**Can I qualify for the benefits of Prop. 60/90 when I sell my original property (owned by me alone) and purchase a replacement dwelling with several co-owners? What if I own only a 10 percent interest in the replacement dwelling?**

Yes. The base year value of your original property can be transferred to your replacement dwelling, as long as you are otherwise qualified. You may receive the benefits of Prop. 60 regardless of how many co-owners of record there are on the replacement dwelling. In this situation, the total market value of the original property is compared to the total market value of the replacement property regardless of the fact that the qualified principal claimant may only own 10 percent of both original and replacement dwelling

properties.

You and your spouse, as the claimants, will use your "one time only" benefit. An owner of record of the replacement property who is not the claimant's spouse is *not* considered a claimant, and a claim filed for the property will not constitute use of the one-time-only exclusion by the co-owner even though that person may benefit from the property tax relief.

**Can two otherwise qualified taxpayers who have recently sold their separately owned original properties combine their claim for Prop. 60/90 benefit when they buy a single replacement dwelling together?**

No. they can only receive the benefit if one or the other, not both together, qualifies by comparing his or her original property to the jointly purchased replacement dwelling. The implementing legislation specifically disallows combining a claim, whether or not the co-owners of the replacement dwelling are married.

**May I, as a former co-owner of an original property, receive partial benefit on my replacement dwelling, along with other co-owners who purchase separate replacement dwellings?**

No. The law provides that only one co-owner of an original property that is, or was, qualified for the Homeowners' Exemption may receive the benefit in a situation like this where all co-owners purchase separate replacement dwellings. The co-owners must determine, between themselves, which one should receive the benefit. Only in the case of a multiple-residential original property, where several co-owners qualify for separate Homeowners' Exemptions, may portions of the factored base year value of that property be transferred to several qualified replacement dwellings.

**What if I am the co-owner of a property with more than one residential unit?**

A portion of the original property may qualify for the Homeowners' Exemption for you. The base year value of that portion can be transferred to your replacement dwelling. The other portion(s) of the original property may qualify for a separate Homeowners' Exemption(s). The base year value(s) of that other portion(s) can be transferred to another replacement dwelling(s).

**Does a person qualify for the Prop. 60/90 benefit when he/she sells an original property, then buys a replacement dwelling within two years, but no longer qualifies for a Homeowners' Exemption on the original property that sold nearly two years before?**

Yes. The statute requires that the original property be eligible for the Homeowners' Exemption at the time of sale. It is eligible if the claimant owns and occupies the property as his or her principal residence at the time of sale.

**Can I receive Prop 60. benefits if my original property is outside Orange County but my replacement dwelling is inside Orange County?**

No. Both properties must be within Orange County.

**Can I receive Prop. 60 benefits if my original property is inside Orange County but my replacement dwelling is in another county in California?**

You may qualify under Prop. 90. Call the county Assessor's Office where the replacement dwelling is located and ask if that county allows transfers of base year values between counties.

**If the transfer of my base year value to the replacement dwelling results in a supplemental assessment that is a refund, do I still have to pay the existing annual roll tax bill on the replacement property or will that bill be adjusted to reflect the new, lower value?**

Unfortunately, you **must** pay the existing annual roll tax bill on your replacement property. That bill **cannot be adjusted or canceled** to reflect the Prop. 60 benefit. Additionally, you must pay that

bill **before** any refund resulting from the Prop. 60 benefit will be sent to you.

However, after the existing bill has been paid, you will later receive a refund that will reflect the Prop. 60 benefit. In other words, when the entire process is complete, you will not have overpaid any taxes, (Revenue & Taxation Code Section 75.43.c).