Exclusion requires timely filing of form with County Assessor's office

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Q: My wife and I have owned our home, and a rental duplex, for approximately 20 years. We have a low assessed value on each. We would like to preserve the low property tax

rate for our son. If we pass it to him by gift or by inheritance, would either transfer trigger reassessment and a higher property tax rate?

A: Here's how it works: Generally speaking, anytime there is a sale or transfer of real property, the transfer would be considered a change in ownership which would trigger a reassessment of the property tax based upon its fair market value at transfer. However, there are two key exemptions to this general rule which would come to your rescue.

Home: A transfer of a principal residence between parent and child, whether by gift or inheritance, would not be considered a change of ownership, providing that the exemption is actually claimed by filing a form in connection with the transfer called "Claim for Reassessment Exclusion for Transfer between Parent and Child."

This is a simple form available on the county assessor's website. This exemption from reassessment would apply no matter how much your home is worth. However, if your child chose not to actually live in the home as his principal residence, he would only lose the rather modest $7,000 Homeowner's Exemption, but the home would not be reassessed upon transfer and your son would take your low property tax rate.

Non-Residential Property: With respect to your rental property, there would be another exclusion from reassessment, but only up to $1 million of its current fair market value. Again, however, the "Claim for Reassessment Exclusion" must be timely filed in connection with the

transfer.

So, it really makes no difference, in terms of the California property tax, whether you pass your real property to your children by gift during lifetime or by inheritance upon your demise. However, in either case, the exemption appropriate to the particular property must be actually claimed by timely filing the “Claim for Reassessment Exclusion” form.

However, if you left any portion of your home or rental property to a recipient who is not your child, such as a grandchild, neither of the exemptions would apply to that portion given to the grandchild. But even here there is an exception: In the event that the grandchild’s own parent (your child) were deceased at the time of transfer, then your grandchild would move up a generation and the exemption would then be available to your grandchild.

Two Cautions

(1) In the current “down” real estate market, some real properties are actually worth less now than their current assessed value. If that were your situation, you might then wish to forego filing the Claim for Exclusion, as the assessor would then assess the property at the lower market value upon transfer.

(2) This article addresses only the property tax. In considering a transfer of appreciated real property to your children or others, you should also take into account the other taxes that may apply, i.e. capital gains tax, estate and gift tax. My recommendation is that you consult with your tax advisor or an estate planning or elder law attorney.

For more information on property tax, visit the Alameda County Assessor's website at www.acgov.org/assessor or telephone their office at 510-272-3787.

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