

CHAPTER 6A
OVERVIEW OF SPECIAL STATE TAX PROVISIONS
AFFECTING SENIOR CITIZENS

HIGHLIGHTS

- Social Security Income Not Taxable
 - Additional Personal Credits for Elderly and Blind
 - Senior Head of Household
 - Property Tax Reappraisal Relief for Senior Citizens
 - Senior Citizens Property Tax Assistance
 - Senior Citizens Property Tax Postponement
 - No State Inheritance Tax
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1. OVERVIEW

California has several tax programs benefiting the elderly. While many of the provisions are not directed specifically at seniors and may, in fact, be aimed at other groups of citizens, persons over age 55 are frequently the beneficiaries. Below is a list of state tax provisions for which many senior citizens qualify.

2. PERSONAL INCOME TAX BENEFITS

Social Security Income Not Taxable. Under California income tax law, Social Security and Tier 1 Railroad Retirement benefits are not taxable. In contrast, federal tax law requires 50% of Social Security benefits to be taxed if: (a) so-called "provisional income" exceeds \$32,000 for married filers filing joint returns; or (b) provisional income exceeds \$25,000 for any other filing status; and 85% of benefits received to be taxed if: (a) provisional income exceeds \$34,000 for single taxpayers; or (b) provisional income exceeds \$44,000 for any other filing status. Married taxpayers that file separately are taxed on the total amount of benefits received. "Provisional income" equals a taxpayer's adjusted gross income plus any tax-exempt interest plus and any untaxed income from a foreign country plus one-half of a taxpayer's Social Security or Tier 1 Railroad Retirement benefits.

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Additional Personal Credit for the Elderly and Blind. Every California taxpayer is entitled to personal exemption or dependent credits for all the members of the household.

An additional credit can be claimed for any person in a household who is (a) age 65 or older on the last day of the tax year; or (b) blind. A person who is both elderly and blind is eligible for two additional credits on top of the personal or dependent credit.

The additional personal credit for either an elderly person or a blind person is \$99 (\$198 if both elderly and blind) in the 2008 tax year and may be claimed on the taxpayer's personal income tax return.

Renters' Credit. The renters' credit was suspended for the 1993 through 1997 tax years, but was reinstated beginning with the 1998 taxable year. The credit allowed varies based on the taxpayer's adjusted gross income (AGI) and filing status. AGI amounts are indexed annually for inflation. In 2008, a credit of \$120 is allowed for married/registered domestic partner (RDP) filing joint returns, heads of household and surviving spouses if AGI is \$69,872 or less, and \$60 for other individuals (single or married/RDP filing separately) if AGI is \$34,936 or less. The renters' credit is nonrefundable. See Chapter 6F (Renters' Credit) for more information.

Senior Head of Household. A California senior may claim a tax credit as a senior head of household in the amount of 2% of taxable income, up to a maximum of \$1,146 for 2007, if certain conditions are met. The taxpayer must be 65 years of age or older by the end of the taxable year and must have qualified as head of household during one of the two preceding taxable years by providing a household for an individual who died during one of those years. In 2008, the taxpayer's adjusted gross income may not exceed \$63,831. The maximum credit amount is indexed annually for inflation.

Tax Relief on Sale of Home. Like federal law, state law allows taxpayers to exclude up to \$250,000 (\$500,000 if married filing jointly) of gain realized on the sale or exchange of a principal residence on or after May 7, 1997. The exclusion is allowed each time a taxpayer selling a principal residence meets certain eligibility requirements, but generally no more frequently than once every two years. To be eligible for the exclusion, a taxpayer must have owned the residence and occupied it as a principal residence for at least two of the five years prior to the sale or exchange. Federal and state provisions allowing for a once-in-a-lifetime exclusion of \$125,000 and the rollover of gain from the sale of a principal residence were repealed at the time the current provisions were enacted.

3. PROPERTY TAX BENEFITS

Property Tax Reappraisal Relief for Senior Citizens. Proposition 60, which was approved by voters in 1986, allows senior citizens over 55 years of age to maintain their

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property tax base year value for intra-county (within a county) replacements of principal residences. In order to carry over base year value of the property sold, the replacement property value must be equal to or lower than the value of the senior's original residence. Seniors purchasing new homes in 1994, for example, may carry over their property tax base year value from their original home (for example, a home purchased in 1953) to their replacement home.

Proposition 90, approved by the voters in 1988, allows counties to extend Proposition 60 relief to inter-county (between counties) replacements of principal residences by seniors. However, this program is optional on the part of counties receiving the base year transfer (i.e., the new residence of the senior). Currently, only nine counties (Alameda, Kern, Los Angeles, Modoc, Orange, San Diego, San Mateo, Santa Clara, and Ventura) accept inter-county base year transfers.

Taxpayers must claim the property tax reappraisal relief through the local county assessor. See Section 6 of Chapter 4 in this Reference Book for more information.

Senior Citizens Property Tax Assistance. The state budget approved for the 2008-2009 fiscal year deleted funding for the Homeowner and Renter Assistance Program. Typically, the filing period for current year claims would have begun July 1, 2008, with assistance available through October 15, 2008. However, the state budget approved for the 2008-2009 fiscal year deleted funding for the Homeowner and Renter Assistance Program. Because there is no funding in the state budget for this program, 2008 claims cannot be paid or processed until and unless funding is received.

Senior citizen homeowners and renters who are 62 years or over (or blind or disabled persons of any age) and who have household income within specified limits qualify for property tax relief payments.

For homeowners, the amount of relief is a portion of the tax on the first \$34,000 of the property's full value, the percentage varying in inverse ratio to the household income. The percentage is highest for individuals whose household income is \$10,691 for 2006 or less, and decreases as household income increases. It phases out completely for individuals whose household incomes exceed \$42,770 for 2006. The gross household income limit is increased annually by the change in the California Consumer Price Index.

For renters, the amount of relief is a portion of \$250, which is the statutory property tax equivalent of the homeowners' exemption. The percentage of credit varies inversely to household income under the same schedule described above for homeowners.

For the 2007 calendar year, the maximum homeowners assistance allowed is \$473. The maximum renters' assistance is \$348.

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To claim the assistance, homeowners file forms FTB 9000H with the Franchise Tax Board (FTB); renters submit form FTB 9000R. Claim forms may be filed between July 1 and October 15 of each year. See Chapter 6B of this Reference Book for more information on the Senior Citizens Assistance Program.

Senior Citizens Property Tax Postponement. Persons aged 62 or over (or blind or disabled persons of any age) may postpone payment of property taxes on their home under certain conditions. The claimant must own and occupy the property involved, which may be in cooperative housing or in a multipurpose or multi-unit structure. The claimant must have at least 20% equity, based on property tax valuation.

To be eligible, the claimant must have household income of no more than \$24,000 (\$34,000 for claimants who filed and qualified in 1983). Household income consists of taxable plus nontaxable income such as social security, public assistance payments, etc. Household income also includes income received by all other household members during the time that they lived in the claimant's home.

The postponed taxes are secured by a lien on the property. In general, the postponed taxes are paid when the claimant disposes of the property or dies without leaving a spouse living in the home. If the claimant dies and leaves a spouse living in the home, the tax is payable when the spouse dies, ceases to reside in the home, sells the property, etc.

Claim forms (SCO Form 9003) must be filed with the State Controller's Office from May 15 through December 10 in order to postpone the property taxes for the year.

For further information, see Chapter 6C on the Property Tax Postponement Program.

4. NO STATE INHERITANCE TAX

California's inheritance tax was repealed by Proposition 6 in 1982.

California now levies a "pickup" estate tax up to the maximum amount of the inheritance tax credit allowed against the federal estate tax. This "pickup" tax does not increase the overall tax liability of the estate. See Chapter 3D on Estate Tax for additional information.

5. CODES

California Constitution, Article XIII A

Revenue and Taxation Code Sections 69.5, 17037, 17054, 17054.7, 17087, 20501-20646