

Memorandum

To: Honorable Antonio Vazquez, Chairman
Honorable Mike Schaefer, Vice Chair
Honorable Ted Gaines, First District
Honorable Malia M. Cohen, Second District
Honorable Betty T. Yee, State Controller

Date: May 11, 2021

From: Henry D. Nanjo
Chief Counsel

Subject: *May 25, 2021 Board Meeting
Chief Counsel Matters – Item G – Rulemaking.
Publication of Notice of Proposed Action
Proposed Property Tax Rule 462.540, Change in Ownership – Base Year Value Transfers*

Assembly Constitutional Amendment Number 11 (ACA 11) was presented to and approved by voters at the November 3, 2020 general election as Proposition 19. Proposition 19 is entitled, “The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act” and, relevant to this rulemaking, created a base year value transfer provision for certain eligible persons who are aged over 55 years, severely disabled, or a victim of wildfire or natural disaster. These provisions are contained in section 2.1, subdivisions (b) and (e) of article XIII A of the California Constitution (referred to as Section 2.1 with its corresponding subdivision for convenience).¹

Section 2.1(b), beginning on and after April 1, 2021, allows an owner of a primary residence who is over 55 years of age, or severely disabled, or a victim of a wildfire or natural disaster to transfer the taxable value of their primary residence to a replacement primary residence located anywhere in California, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence.² In addition, an owner of a primary residence who is over 55 or severely disabled may only transfer the taxable value of a primary residence three times.³

Under the new Proposition 19 base year value transfer provision, if the transfer of taxable value is to a replacement primary residence that has a full cash value that is of *equal* or *lesser* value than the full cash value of the original primary residence, the taxable value of the replacement primary residence is deemed to be the taxable value of the original primary residence. However, if the transfer of taxable value is to a replacement primary residence that has a full cash value

¹ ACA 11 also added section 2.2 and 2.3 to Article XIII A of the California Constitution. Section 2.2 instructs how funds derived from section 2.1 are to be used and section 2.3 directs the California Department of Tax and Fee Administration to track the effects of section 2.1. The full text of ACA 11 is at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200ACA11 [as of May 4, 2021].

² Section 2.1(b)(1).

³ Section 2.1(b)(3). Note that transfers of taxable value due to wildfire or natural disasters do not count against this transfer maximum.

that is of *greater* value than the full cash value of the original primary residence, then the taxable value of the replacement primary residence is deemed to be the taxable value of the original primary residence plus the difference between the full cash value of the original primary residence and the full cash value of the replacement primary residence.⁴

I. Procedural History

The text of Proposition 19 left a number of significant questions unanswered that are critical to its proper implementation and administration. The Board of Equalization (Board) is charged with the statutory responsibility and authority to “[p]rescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing” (Gov. Code, § 15606, subd. (b).) The Board must also, “Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation.” (Gov. Code, § 15606, subd. (e).) Therefore, following the passage of Proposition 19, Board staff issued guidance to assist taxpayers, assessors, and other interested parties.⁵ At the same time, Board staff, along with the California Assessors’ Association, drafted proposed legislation that answers a number of important interpretational questions and also grants the Board emergency rulemaking authority. As of the date of this memorandum, that bill, Senate Bill (SB) 539, has not been enacted.⁶

Because SB 539 has not been enacted, the Legislature has not granted the Board explicit authority to promulgate rules for Proposition 19 through the emergency rulemaking process. Therefore, at its February 24, 2021 meeting, the Board authorized staff to initiate the regular rulemaking process for the base year value transfer provisions of Proposition 19. Consistent with the Board’s authorization, staff initiated the regular rulemaking process by issuing draft text of proposed California Code of Regulations, title 1, section (Property Tax Rule or Rule) 462.540, *Change in Ownership – Base Year Value Transfers* via Letter to Assessors (LTA) 2001/012. Comments on the draft text were received through April 16, 2021.

Staff has received and responded to a number of comments in a “matrix” form that will be published on the Board’s website. To date, staff has accepted a number of comments that have helped to clarify various parts of the proposed rule as well as the examples. Additionally, some comments have suggested ways to reformat or reorganize portions of the proposed rule that were not accepted at this time.

Staff will maintain the comments received prior to the initiation of Rule 462.540’s formal rulemaking process, along with any comments received throughout the formal rulemaking process. Some of these comments may be revisited for future guidance or rulemaking efforts. After this rulemaking process concludes, if staff later agrees with a nonsubstantive comment not addressed or incorporated into this rulemaking effort, staff will seek the Board’s authorization to make future regulatory changes under California Code of Regulations, title 1, section (Rule) 100, without the normal notice and public hearing process.

⁴ Section 2.1(b)(2).

⁵ All Proposition 19 guidance issued to date can be found here: < <https://boe.ca.gov/prop19/>> [as of May 4, 2021].

⁶ The bill was introduced as Senate Bill 539 on February 18, 2021, and was ordered to third reading in the Senate on March 9, 2021.

II. Staff's Recommendation

For the reasons stated above, and the necessity to promulgate rules as promptly as possible, Staff recommends that the Board authorize commencement of the official rulemaking process by authorizing the publication of a notice of proposed regulatory action for proposed Property Tax Rule 462.540 in the California Notice Register. The Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and the proposed Rule in underline form are attached hereto.

If you need more information or have any questions, please contact Henry Nanjo, Chief Counsel, at (916) 274-3520.

Recommended by:

Approved:

/s/Henry Nanjo

/s/ BFleming

Henry D. Nanjo, Chief Counsel

Brenda Fleming, Executive Director

Approved:

BOARD APPROVED on: _____

/s/ David Yeung

David Yeung, Deputy Director
Property Tax Department

Catherine Taylor, Chief
Board Proceedings Division

Attachment(s): Notice of Proposed Regulatory Action, Initial Statement of Reasons, Proposed Property Tax Rule 462.540

cc: Mr. Richard Moon
Ms. Lisa Thompson

Notice of Proposed Regulatory Action
The State Board of Equalization Proposes to Adopt
California Code of Regulations, Title 18,
Section 462.540, *Change in Ownership – Base Year Value Transfers*

NOTICE IS HEREBY GIVEN that the State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt California Code of Regulations, title 18, section (Rule or Property Tax Rule) 462.540, *Change in Ownership – Base Year Value Transfers*. This Rule implements, interprets, and makes specific certain change in ownership exclusion provisions provided by section 2.1 of article XIII A of the California Constitution (Section 2.1). Specifically, Section 2.1, subdivision (b) creates the ability for any eligible homeowner who is either at least 55 years of age, severely disabled, or a victim of a wildfire or natural disaster, to transfer their property tax base year value to a replacement home within any of the 58 counties of California. This new base year value transfer is operative for transfers occurring on or after April 1, 2021. Additionally, Section 2.1, subdivision (e) provides relevant definitions for the interpretation of the new base year value transfer. Pursuant to the changes enacted by Section 2.1, subdivisions (b) and (e), the proposed new Property Tax Rule 462.540 (Proposed Rule) clarifies homeowner eligibility and provides specificity to claim the base year value transfers, as necessary for the fair and efficient administration of Section 2.1, and to provide examples.

PUBLIC HEARING

The Board will conduct a meeting on August 24-25, 2021 via teleconference, consistent with the Governor’s Executive Order N-29-20 (issued March 17, 2020). The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. on August 24, 2021, or as soon thereafter as the matter may be heard at the Board’s August 24-25, 2021 meeting. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the new Property Tax Rule 462.540.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Article XIII A, section 2.1, California Constitution; and Revenue and Taxation Code section 60.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

Proposition 13 was adopted by the voters at the June 1978 primary election and added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of one percent of the full cash value of real property. For purposes of this limitation, section 2 of article XIII A defines full cash value to mean a county assessor's valuation of real property as shown on the 1975-76 tax bill, or thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. In general, properties are reassessed to current market value only upon a change in ownership or the completion of new construction, establishing a new "base year value" for property tax purposes. The California Legislature codified the definition of "change in ownership" in Revenue and Taxation Code (RTC) section 60 and codified other provisions regarding whether a transfer of property results in a change in ownership, is excluded from the definition of "change in ownership," or allows for the transfer of a property's base year value to a replacement property.¹ (RTC sections 61 through 69.5).

Since Proposition 13 was enacted, voters have amended Article XIII A of the constitution several times to provide specified conditions permitting the transfer of a property's base year value from an existing principal residence to a replacement principal residence:

- Proposition 60 (1986) authorized persons aged 55 or older to transfer the base year value of their principal residence to a replacement dwelling, if the replacement is within the same county (intracounty), of equal or lesser value, and was purchased or newly constructed within two years of the sale of the principal residence.
- Proposition 90 (1988) expanded the base year value transfer authorized by Proposition 60 to allow for intercounty transfers if the county had authorized such a transfer by ordinance.
- Proposition 110 (1990) expanded the base year value transfer eligibility established by Propositions 60/90 to severely and permanently disabled claimants.
- Proposition 50 (1986) allows property owners to transfer their base year value transfer of an original property that has been substantially damaged or destroyed in a Governor-declared disaster to a comparable replacement property located within the same county.
- Proposition 171 (1993) expanded the base year value transfer eligibility established by Proposition 50 to allow for intracounty transfers if the county has authorized such a transfer by ordinance.

These constitutional amendments are reflected in article XIII A, section 2 of the California Constitution and have been further implemented and codified as RTC sections 69 (Proposition 50), 69.3 (Proposition 171), and 69.5 (Propositions 60, 90, and 110).

¹ As the transfer of a base year value to a replacement property allows the owner to be assessed property tax based on the historic factored base year value transferred (generally established at a lower fair market value, as adjusted for inflation), the transfer of a base year value to a replacement property is referred to as "property tax relief."

In the November 3, 2020 general election, the voters amended the constitution by approving Proposition 19, which, amongst other things, defined eligibility conditions for eligible persons, who are aged 55 or older, severely disabled, or a victim of wildfire or natural disaster, to engage in statewide base year value transfers (by adding Section 2.1, subdivisions (b) and (e)).

Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. The Board proposed to adopt Property Tax Rule 462.540, *Exclusion from Change in Ownership – Base Year Value Transfers* to implement, interpret, and make specific the change in ownership provisions instituted by Proposition 19. In particular, Property Tax Rule 462.540 implements, interprets, and makes specific California Constitution, article XIII A, section 2.1, subdivision (b), which provides that:

(b) Property Tax Fairness for Seniors, the Severely Disabled, and Victims of Wildfire and Natural Disasters. Notwithstanding any other provision of this Constitution or any other law, beginning on and after April 1, 2021, the following shall apply:

(1) Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence.

(2) For purposes of this subdivision:

(A) For any transfer of taxable value to a replacement primary residence of equal or lesser value than the original primary residence, the taxable value of the replacement primary residence shall be deemed to be the taxable value of the original primary residence.

(B) For any transfer of taxable value to a replacement primary residence of greater value than the original primary residence, the taxable value of the replacement primary residence shall be calculated by adding the difference between the full cash value of the original primary residence and the full cash value of the replacement primary residence to the taxable value of the original primary residence.

(3) An owner of a primary residence who is over 55 years of age or severely disabled shall not be allowed to transfer the taxable value of a primary residence more than three times pursuant to this subdivision.

(4) Any person who seeks to transfer the taxable value of their primary residence pursuant to this subdivision shall file an application with the assessor of the county in which the replacement primary residence is located. The application

shall, at minimum, include information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code, as that section read on January 1, 2020.

Property Tax Rule 462.540 also implements, interprets, and makes specific Section 2.1, subdivision (e), which provides, in relevant part, that:

(e) For purposes of this section:

(1) “Disabled veteran’s exemption” means the exemption authorized by subdivision (a) of Section 4 of Article XIII.

(2) “Family farm” means any real property which is 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.

(3) “Family home” has the same meaning as “principal residence,” as that term is used in subdivision (k) of Section 3 of Article XIII.

(4) “Full cash value” has the same meaning as defined in subdivision (a) of Section 2.

(5) “Homeowner’s exemption” means the exemption provided by subdivision (k) of Section 3 of Article XIII.

(6) “Natural disaster” means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(7) “Primary residence” means a residence eligible for either of the following:

(A) The homeowner’s exemption.

(B) The disabled veteran’s exemption.

(8) “Principal residence” as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

(9) “Replacement primary residence” has the same meaning as “replacement dwelling,” as that term is defined in subdivision (a) of Section 2.

(10) “Taxable value” means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

Effects, Objectives, and Benefits of the Proposed Property Tax Rule

Here, the relevant Proposition 19 provisions became effective as of April 1, 2021. Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. Consistent with this responsibility, the Board seeks to promulgate new Property Tax Rule 462.540 to provide clarity of the relevant provisions within Section 2.1 of article XIII A of the California Constitution. Specifically, the Board is proposing this Rule to implement, interpret, and make specific subdivisions (b) and (e) of section 2.1 of article XIII A of the California Constitution.

Proposed Rule 462.540, subdivision (a) makes explicit or provides clarification for specific provisions of Section 2.1, subdivision (b), including:

- That either the sale of the original primary residence or the purchase or new construction of the replacement primary residence, but not both, may occur prior to April 1, 2021;
- That the real property from which a particular base year value is transferred is the original primary residence either at the time of its sale or at the time the claimant became a victim of a wildfire or natural disaster;
- That a qualifying original primary residence undergoes a change in ownership that either subjects the property to reappraisal at current full cash value or results in a base year value determined in accordance with this rule or RTC sections 69 or 69.3 (i.e. the original primary residence is a qualifying replacement primary residence, dwelling or property for the base year value transfer of another eligible claimant);
- That the replacement primary residence is purchased or newly constructed within two years of the sale of the original primary residence. In instances where the replacement is, in part, purchased and also, in part, newly constructed, the latter date is used, and the base year value does not transfer until the original primary residence is sold;
- That at the time the claim is filed, the purchased or newly constructed dwelling qualifies as the person's replacement primary residence; and
- That the person has not previously been granted property tax relief provided by this rule more than two previous times, not including previous claims due to wildfires or natural disasters.

Additionally, subdivision (a) includes three examples. Example 1 shows that the original primary residence must undergo a 100 percent change in ownership that results in a reappraisal of the property at its current full cash value. Example 2 illustrates that the claimant does not need to own 100 percent of the replacement primary residence for their original primary residence's base year value to transfer. Examples 4 and 5 illustrate the principle that the replacement primary residence must be purchased within two years of the sale of the original primary residence. Example 6 illustrates that a married couple may qualify to transfer the base year value of their community property primary residence provided that the claimant spouse has not yet used the exclusion more than two previous times.

Importantly, the proposed rule provides clarification for valuation of real property under Proposition 19's base year value transfer exclusion. Subdivision (b)(1) provides that if the

replacement primary residence's full cash value is of equal or lesser value than the full cash value of the original primary residence, then the new base year value of the replacement primary residence will be the original primary residence's factored base year value. Example 7 provides an illustration of this calculation. Additionally, subdivision (b)(2) explains that if the replacement primary residence's full cash value is greater than the full cash value of the original primary residence, then the new base year value of the replacement primary residence will be the sum of the factored base year value of the original primary residence plus the difference between the full cash values of the replacement and original primary residences. Example 8 illustrates this calculation. Subdivision (b)(3) clarifies that the full cash value of the original primary residence shall be determined as of the date of its sale, whereas the full cash value of the replacement primary residence shall be determined as of the date it is purchased or newly constructed.

Subdivision (c) of the Proposed Rule provides definitions for terms used throughout the Rule and which are required for its implementation. It includes certain definitions (such as "full cash value", and "primary residence") or clarifies other definitions (such as "natural disaster") that are found within Section 2.1, subdivision (e).

The Proposed Rule in subdivision (d) clarifies Section 2.1, subdivision (b)(4) and provides claim filing instructions, including: how an eligible transferee can file a claim for base year value transfer; when the claim is considered timely; and that an untimely claim will only provide prospective relief. The Proposed Rule requires county assessors to report such claims quarterly to the State Board of Equalization. Example 9 provides an illustration of what property tax relief is available for an untimely base year value transfer claim.

Subdivision (e) of the Proposed Rule provides further clarification regarding the timing of the transfer, including: that the adjustment to the new base year value of the replacement primary residence must be made as of the latest of specified dates; under what conditions must levied taxes on the replacement primary residence be canceled or refunded (as illustrated by Example 10); that chapter 3.5 of the RTC (starting with section 75 and notwithstanding section 75.10) governs this subdivision's implementation; and under what conditions this property tax relief extends to new construction completed after a base year value transfer claim has already been granted under this Proposed Rule (as illustrated by Examples 11 and 12).

Subdivision (f) of the Proposed Rule clarifies how Section 2.1's base year value transfer provision applies to situations where the claimant is a co-owner of an original primary residence.

Subdivision (g) clarifies that multiunit properties and mobilehomes are also eligible for base year value transfers, as described.

The above clarifications are reasonably necessary for the efficient and fair administration of the change in ownership provisions under section 2.1 of article XIII A of the California Constitution applicable to base year value transfers. The Board anticipates that the Proposed Rule will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, county assessors, and owners of property potentially eligible for a base year value transfer provided by Proposition 19.

The Board has performed an evaluation of whether proposed Property Tax Rule 462.540 is inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Rule is not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the provisions that would be adopted by the proposed new Rule. In addition, there is no comparable federal regulation or statute to proposed Property Tax Rule 462.540.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the Proposed Rule will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

ONE-TIME COST TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of proposed new Property Tax Rule 462.540 will result in an absorbable \$856 one-time cost for the Board to update its website, issue letters regarding this Rule to interested parties, and train county assessors on how to assess property under this Rule after the Proposed Rule is completed. The Board has determined that the adoption of the Proposed Rule will result in no other direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the Proposed Rule will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The adoption of the proposed new Rule is not expected to affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board assessed the economic impact of proposed new Property Tax Rule 462.540 on California businesses and individuals and determined that the Proposed Rule is not a major regulation as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact

assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the Proposed Rule and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Rule will neither create nor eliminate jobs in the State of California, nor create new businesses or eliminate existing businesses within the state, nor expand businesses currently doing business in the State of California. Furthermore, the Board has determined that the adoption of the Proposed Rule will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of proposed Property Tax Rule 462.540 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the Proposed Rule should be directed to Mr. Henry Nanjo, Chief Counsel, by telephone at (916) 274-3520, by e-mail at henry.nanjo@boe.ca.gov, or by mail at State Board of Equalization, Attn: Henry Nanjo, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Lawrence Lin, Regulations Coordinator, by telephone at (916) 274-3527, by e-mail at lawrence.lin@boe.ca.gov, or by mail at State Board of Equalization, Attn: Lawrence Lin, MIC: 80, P.O. Box 942879, Sacramento, CA 94279-0080. Mr. Lin is the designated backup contact person to Mr. Nanjo for this matter.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on August 24, 2021, or as soon thereafter as the Board holds the public hearing regarding the Proposed Rule during the August 24-25, 2021 Board meeting. Written comments received by Mr. Lin at the postal address or email address provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the Proposed Rule. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underline version of proposed new Property Tax Rule 462.540 illustrating the express terms of the Proposed Rule and an initial statement of reasons for the adoption of the Proposed Rule, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the Proposed Rule is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed new Rule and the Initial Statement of Reasons are also available on the Board's website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the Proposed Rule with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days prior to adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Lin. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the Proposed Rule, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

**Initial Statement of Reasons for
Proposed California Code of Regulations, Title 18,
Section 462.540, *Change in Ownership – Base Year Value Transfers***

**SPECIFIC PURPOSE, PROBLEM INTENDED TO BE ADDRESSED, NECESSITY,
AND ANTICIPATED BENEFITS**

Current Law

Proposition 13 was adopted by the voters at the June 1978 primary election and added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of one percent of the full cash value of real property. For purposes of this limitation, section 2 of article XIII A defines full cash value to mean a county assessor's valuation of real property as shown on the 1975-76 tax bill, or thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. In general, properties are reassessed to current market value only upon a change in ownership or the completion of new construction, establishing a new "base year value" for property tax purposes. The California Legislature codified the definition of "change in ownership" in Revenue and Taxation Code (RTC) section 60 and codified other provisions regarding whether a transfer of property results in a change in ownership or is excluded from the definition of "change in ownership," or allows for the transfer of a property's base year value to a replacement property.¹ (RTC sections 61 through 69.5).

Since Proposition 13 was enacted, voters have amended Article XIII A of the constitution several times to provide specified conditions permitting the transfer of a property's base year value from an existing principal residence to a replacement principal residence:

- Proposition 60 (1986) authorized persons aged 55 or older to transfer the base year value of their principal residence to a replacement dwelling, if the replacement is within the same county (intracounty), of equal or lesser value, and was purchased or newly constructed within two years of the sale of the principal residence.
- Proposition 90 (1988) expanded the base year value transfer authorized by Proposition 60 to allow for intercounty transfers if the county had authorized such a transfer by ordinance.
- Proposition 110 (1990) expanded the base year value transfer eligibility established by Propositions 60 and 90 to severely and permanently disabled claimants.
- Proposition 50 (1986) allows property owners to transfer their base year value transfer of an original property that has been substantially damaged or destroyed in a Governor-declared disaster to a comparable replacement property located within the same county.

¹ As the transfer of a base year value to a replacement property allows the owner to be assessed property tax based on the historic factored base year value being transferred (generally established at a lower fair market value, as adjusted for inflation), the transfer of a base year value to a replacement property is referred to as property tax relief.

- Proposition 171 (1993) expanded the base year value transfer eligibility established by Proposition 50 to allow for intracounty transfers if the county has authorized such a transfer by ordinance.

These constitutional amendments are reflected in article XIII A, section 2 of the California Constitution and have been further implemented and codified as RTC sections 69 (Proposition 50), 69.3 (Proposition 171), and 69.5 (Propositions 60, 90, and 110).

In the November 3, 2020 general election, the voters amended the constitution by approving Proposition 19, which, amongst other things, defined eligibility conditions for eligible persons, who are aged 55 or older, severely disabled, or a victim of wildfire or natural disaster, to engage in statewide base year value transfers (by adding Section 2.1, subdivisions (b) and (e)).

Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. The Board proposed to adopt Property Tax Rule 462.540, *Exclusion from Change in Ownership – Base Year Value Transfers* to implement, interpret, and make specific the change in ownership provisions instituted by Proposition 19. In particular, Property Tax Rule 462.540 implements, interprets, and makes specific California Constitution, article XIII A, section 2.1, subdivision (b), which provides that:

(b) Property Tax Fairness for Seniors, the Severely Disabled, and Victims of Wildfire and Natural Disasters. Notwithstanding any other provision of this Constitution or any other law, beginning on and after April 1, 2021, the following shall apply:

(1) Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence.

(2) For purposes of this subdivision:

(A) For any transfer of taxable value to a replacement primary residence of equal or lesser value than the original primary residence, the taxable value of the replacement primary residence shall be deemed to be the taxable value of the original primary residence.

(B) For any transfer of taxable value to a replacement primary residence of greater value than the original primary residence, the taxable value of the replacement primary residence shall be calculated by adding the difference between the full cash value of the original primary residence and the full cash value of the replacement primary residence to the taxable value of the original primary residence.

(3) An owner of a primary residence who is over 55 years of age or severely disabled shall not be allowed to transfer the taxable value of a primary residence more than three times pursuant to this subdivision.

(4) Any person who seeks to transfer the taxable value of their primary residence pursuant to this subdivision shall file an application with the assessor of the county in which the replacement primary residence is located. The application shall, at minimum, include information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code, as that section read on January 1, 2020.

Property Tax Rule 462.540 also implements, interprets, and makes specific Section 2.1, subdivision (e), which provides, in relevant part, that:

(e) For purposes of this section:

(1) “Disabled veteran’s exemption” means the exemption authorized by subdivision (a) of Section 4 of Article XIII.

(2) “Family farm” means any real property which is 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.

(3) “Family home” has the same meaning as “principal residence,” as that term is used in subdivision (k) of Section 3 of Article XIII.

(4) “Full cash value” has the same meaning as defined in subdivision (a) of Section 2.

(5) “Homeowner’s exemption” means the exemption provided by subdivision (k) of Section 3 of Article XIII.

(6) “Natural disaster” means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(7) “Primary residence” means a residence eligible for either of the following:

(A) The homeowner’s exemption.

(B) The disabled veteran’s exemption.

(8) “Principal residence” as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

(9) “Replacement primary residence” has the same meaning as “replacement dwelling,” as that term is defined in subdivision (a) of Section 2.

(10) “Taxable value” means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

Here, the relevant Proposition 19 provisions became effective as of April 1, 2021. Under Government Code section 15606, subdivision (c), the State Board of Equalization (Board) is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. Consistent with this responsibility, the Board seeks to promulgate new Property Tax Rule 462.540 to provide clarity of the relevant provisions within Section 2.1 of article XIII A of the California Constitution. Specifically, the Board is proposing this Rule to implement, interpret, and make specific subdivisions (b) and (e) of section 2.1 of article XIII A of the California Constitution.

Proposed Rule 462.540, subdivision (a) makes explicit or provides clarification for specific provisions of Section 2.1, subdivision (b), including:

- That either the sale of the original primary residence or the purchase or new construction of the replacement primary residence, but not both, may occur prior to April 1, 2021;
- That the real property from which a particular base year value is transferred is the original primary residence either at the time of its sale or at the time the claimant became a victim of a wildfire or natural disaster;
- That a qualifying original primary residence undergoes a change in ownership that either subjects the property to reappraisal at current full cash value or results in a base year value determined in accordance with this rule or RTC sections 69 or 69.3 (i.e., the original primary residence is a qualifying replacement primary residence, dwelling or property for the base year value transfer of another eligible claimant);
- That the replacement primary residence is purchased or newly constructed within two years of the sale of the original primary residence. In instances where the replacement is, in part, purchased and also, in part, newly constructed, the latter date is used, and the base year value does not transfer until the original primary residence is sold;
- That at the time the claim is filed, the purchased or newly constructed dwelling qualifies as the person’s replacement primary residence; and
- That the person has not previously been granted property tax relief provided by this rule more than two previous times, not including previous claims due to wildfires or natural disasters.

Additionally, subdivision (a) includes three examples. Example 1 shows that the original primary residence must undergo a 100 percent change in ownership that results in a reappraisal of the property at its current full cash value. Example 2 illustrates that the claimant does not need to own 100 percent of the replacement primary residence for their original primary residence’s base year value to transfer. Examples 4 and 5 illustrate the principle that the replacement primary residence must be purchased within two years of the sale of the original primary residence. Example 6 illustrates that a married couple may qualify to transfer the base year value of their community property primary residence provided that the claimant spouse has not yet used the exclusion more than two previous times.

Importantly, the proposed rule provides clarification for valuation of real property under Proposition 19's base year value transfer exclusion. Subdivision (b)(1) provides that if the replacement primary residence's full cash value is of equal or lesser value than the full cash value of the original primary residence, then the new base year value of the replacement primary residence will be the original primary residence's factored base year value. Example 7 provides an illustration of this calculation. Additionally, subdivision (b)(2) explains that if the replacement primary residence's full cash value is greater than the full cash value of the original primary residence, then the new base year value of the replacement primary residence will be the sum of the factored base year value of the original primary residence plus the difference between the full cash values of the replacement and original primary residences. Example 8 illustrates this calculation. Subdivision (b)(3) clarifies that the full cash value of the original primary residence shall be determined as of the date of its sale, whereas the full cash value of the replacement primary residence shall be determined as of the date it is purchased or newly constructed.

Subdivision (c) of the Proposed Rule provides definitions for terms used throughout the Rule and which are required for its implementation. It includes certain definitions (such as "full cash value", and "primary residence") or clarifies other definitions (such as "natural disaster") that are found within Section 2.1, subdivision (e).

The Proposed Rule in subdivision (d) clarifies Section 2.1, subdivision (b)(4) and provides claim filing instructions, including: how an eligible transferee can file a claim for base year value transfer; when the claim is considered timely; and that an untimely claim will only provide prospective relief. The Proposed Rule requires county assessors to report such claims quarterly to the State Board of Equalization. Example 9 provides an illustration of what property tax relief is available for an untimely base year value transfer claim.

Subdivision (e) of the Proposed Rule provides further clarification regarding the timing of the transfer, including: that the adjustment to the new base year value of the replacement primary residence must be made as of the latest of specified dates; under what conditions must levied taxes on the replacement primary residence be canceled or refunded (as illustrated by Example 10); that chapter 3.5 of the RTC (starting with section 75 and notwithstanding section 75.10) governs this subdivision's implementation; and under what conditions this property tax relief extends to new construction completed after a base year value transfer claim has already been granted under this Proposed Rule (as illustrated by Examples 11 and 12).

Subdivision (f) of the Proposed Rule clarifies how Section 2.1's base year value transfer provision applies to situations where the claimant is a co-owner of an original primary residence.

Subdivision (g) clarifies that multiunit properties and mobilehomes are also eligible for base year value transfers, as described.

The Proposed Rule is reasonably necessary to carry out the purpose of clarifying the relevant provisions of Proposition 19 so that individuals may more easily comply with and assessors may more easily administer Proposition 19. Further, the Proposed Rule is reasonably necessary for uniformity of administration amongst the 58 California Assessors.

DOCUMENTS RELIED UPON

The Board relied upon Assembly Constitutional Amendment Number 11 (ACA 11), legislative analyses for ACA 11, the Proposition 19 ballot pamphlet, the January 8, 2021 Chief Counsel Memorandum, the Letters to Assessors Nos. 2020/061 (dated Dec. 11, 2020), 2021/007 (dated Feb. 5, 2021), and 2021/010 (dated March 5, 2021), comments received in response to LTA 2021/012 (dated March 19, 2021), and related correspondence submitted for and comments made during the Board's Discussion of the issues at its December 17, 2020, January 14-15, 2021, February 11, 2021, February 24, 2021, March 23, 2021, and April 27, 2021 meetings in deciding to propose the new rule described above.

ALTERNATIVES CONSIDERED

The Board considered whether to begin the formal rulemaking process to adopt the Proposed Property Tax Rule, to issue some form of informal guidance or, alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the Proposed Property Tax Rule at this time because the Board determined that the proposed new Property Tax Rule is reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the Proposed Property Tax Rule that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purpose of the proposed action. No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2, SUBDIVISION (b)(5) AND ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b), AND DETERMINATIONS AND ESTIMATE REQUIRED BY GOVERNMENT CODE 11346.5 SUBDIVISIONS (a)(5), (6), AND (8)

Section 2.1, subdivision (b) may, arguably, create a large impact for many Californians. This Proposed Property Tax Rule, however, merely implements, interprets, and makes specific Section 2.1, subdivision (b)'s provisions. Thus, the Board anticipates limited certain costs related to the communication and implementation of this regulation. The Board anticipates a one-time absorbable cost to the State Board of Equalization of \$856 to update its website and issue letters regarding this rule to interested parties after the Proposed Rule is completed. Even though county assessors' offices will be required to process claims for the base year value transfer eligibilities clarified under the Proposed Rule and report such claims to the Board quarterly, county assessors are required to process the base year value transfers established by Section 2.1, subdivision (b), even in the absence of this Proposed Rule.

Since this regulation merely interprets, clarifies, and implements Section 2.1, subdivision (b), this regulation does not impact small businesses as defined in Government Code section 11346.3, subdivision (b)(4)(B).

This regulation is not expected to create or eliminate jobs within the state. The Board likewise does not expect any creation of new business or elimination of existing businesses within the state, nor does it expect an expansion of businesses currently doing business within the state. The Board expects that the adoption of the Proposed Rule will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the Proposed Rule will not have a significant adverse economic impact on business.

Rule 462.540. Change in Ownership – Base Year Value Transfers.

(a) General. Beginning on and after April 1, 2021, any person who is over the age of 55 years, or severely disabled, or a victim of a wildfire or natural disaster may transfer the factored base year value of their primary residence to a replacement primary residence, regardless of the location or value of the replacement primary residence, if all of the following conditions are met:

(1) The person sells the original primary residence within two years of the purchase or new construction of the replacement primary residence. Either the sale of the original primary residence or the purchase or new construction of the replacement primary residence, but not both, may occur before April 1, 2021.

(2) The real property is the person's original primary residence either at the time of its sale, or at the time the person became a victim of a wildfire or natural disaster, or within two years of the purchase or new construction of the replacement primary residence.

(3) The original primary residence undergoes a change in ownership that either:

(A) Subjects that property to reappraisal at its current full cash value; or

(B) Results in a base year value determined in accordance with this section, or sections 69 or 69.3 of the Revenue and Taxation Code, because the property qualifies as a replacement primary residence, dwelling, or property under any of those provisions.

Example 1: A brother and sister are equal co-owners of a primary residence. The sister sells her 50 percent interest to her brother and purchases a separate residence. Even if the sister is otherwise qualified, she is ineligible to transfer her portion of the base year value of the primary residence to her new residence, since the original primary residence did not undergo a 100 percent change in ownership that resulted in a reappraisal of the property at its current full cash value.

(4) The replacement primary residence is purchased or newly constructed within two years of the sale of the original primary residence.

Example 2: Owner sells their original primary residence for \$515,000. Owner and two other persons together purchase a replacement primary residence for \$500,000. If Owner is otherwise qualified, the factored base year value of their original primary residence can be transferred to the replacement primary residence. Even though Owner owns only a one-third interest in the replacement primary residence, 100 percent of the original primary residence changed ownership and 100 percent of the replacement primary residence underwent a change in ownership within two years. Only Owner is considered a claimant, even if the other co-owners will benefit from the Owner's base year value transfer.

Example 3: Owner is the sole owner of a primary residence, which has a market value of \$500,000. Co-owner purchases a 50 percent interest in Owner's property for \$250,000. Co-owner sold their original primary residence for \$200,000 and meets all other requirements. Co-owner

may not transfer the base year value of their original primary residence to their 50 percent interest in Owner's primary residence, since Owner's primary residence did not undergo a 100 percent change in ownership.

(A) If the replacement primary residence is, in part, purchased and, in part, newly constructed, the date the "replacement primary residence is purchased or newly constructed" is the date of purchase or the date of completion of new construction, whichever is later.

(B) The factored base year value of the original primary residence shall not be transferred to the replacement primary residence until the original primary residence is sold.

Example 4: Owner sells their original primary residence on February 1, 2021. Owner purchased a replacement primary residence on January 10, 2023. Subject to all other conditions and requirements of this section, Owner may transfer the base year value of their original primary residence to their replacement primary residence as of January 10, 2023, since the replacement primary residence was purchased within two years of the sale of the original primary residence.

Example 5: Owner purchased a replacement primary residence on March 10, 2020 and sells their original primary residence on May 5, 2021. Subject to all the other conditions and requirements of this section, Owner may transfer the base year value of their original primary residence to their replacement primary residence as of May 5, 2021, since the replacement primary residence was purchased within two years of the sale of the original primary residence.

(5) The person seeking to transfer the factored base year value of their original primary residence pursuant to this section shall file a claim form, in accordance with subdivision (d), with the assessor of the county in which the replacement primary residence is located.

(6) At the time the claim is filed, the purchased or newly constructed dwelling qualifies as the person's replacement primary residence.

(7) The person has not previously been granted, as a claimant, the property tax relief provided by this section more than two previous times. This paragraph shall not apply to claimants that are victims of wildfires or natural disasters.

Example 6: Husband and wife own an original primary residence as community property. Husband has been granted the relief provided by this section three times previously. Wife has never been granted such relief. Subject to all other conditions and requirements of this section, Husband and Wife may sell their original primary residence and transfer its factored base year value to a purchased or newly constructed replacement primary residence if Wife files a claim for exclusion, since Wife has not used the exclusion more than two previous times.

(b) Valuation.

(1) If the full cash value of the replacement primary residence is of equal or lesser value than the full cash value of the original primary residence, the new base year value of the replacement primary residence shall be the factored base year value of the original primary residence.

Example 7: The factored base year value of Owner's original primary residence is \$300,000. Owner sells their original primary residence for \$550,000. Owner purchases a replacement primary residence for \$500,000. Since the full cash value of Owner's replacement primary residence (\$500,000) is less than the full cash value of the original primary residence (\$550,000), the new base year value of the replacement primary residence is \$300,000.

(2) If the full cash value of the replacement primary residence is greater than the full cash value of the original primary residence, the new base year value of the replacement primary residence shall be the difference between the full cash value of the replacement primary residence and the full cash value of the original primary residence plus the factored base year value of the original primary residence.

Example 8: The factored base year value of Owner's original primary residence is \$300,000. Owner sells their original primary residence for \$550,000. Owner purchases a replacement primary residence for \$600,000. Since the full cash value of Owner's replacement primary residence (\$600,000) is greater than the full cash value of the original primary residence (\$550,000), the new base year value of the replacement primary residence is \$350,000 (\$300,000 factored base year value of original primary residence plus \$50,000, which is the difference between the full cash value of the replacement primary residence (\$600,000) and the full cash value of the original primary residence (\$550,000)).

(3) For purposes of this section, the full cash value of the original primary residence shall be determined as of the date of its sale. The full cash value of the replacement primary residence shall be determined as of the date it is purchased or newly constructed.

(c) Definitions. For purposes of this section:

(1) "Claimant" means any person claiming the property tax relief provided by this section.

(2) "Factored base year value" means the amount determined pursuant to subdivision (f) of section 110.1 of the Revenue and Taxation Code.

(3) "Full cash value" means full cash value, as defined in section 110 of the Revenue and Taxation Code. In the case where the claimant is a victim of a wildfire or natural disaster, the full cash value of the original primary residence is determined in accordance with section 110 of the Revenue and Taxation Code immediately prior to the wildfire or natural disaster, as determined by the county assessor of the county in which the property is located, plus the adjustments permitted by subdivision (b) of section 2 of article XIII A of the California Constitution and subdivision (f) of section 110.1 of the Revenue and Taxation Code, for the period from the date of its sale by the claimant to the date on which the replacement primary residence was purchased or new construction was completed.

(4) "Natural disaster" means the existence, as declared or proclaimed by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(5) "Original primary residence" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned by a claimant as their principal residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For property substantially damaged or destroyed by wildfire or natural disaster, "original primary residence" includes vacant land on which a claimant's primary residence was located as of the date of the disaster.

(6) "Over 55 years of age" means any person who has attained the age of 55 years or older at the time of the sale of the original primary residence.

(7) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind. "Person" includes an individual who is the present beneficiary of a trust.

(8) "Primary residence" and "principal residence" mean a residence eligible for either the homeowners' exemption authorized by subdivision (k) of section 3 of article XIII of the California Constitution or the disabled veterans' exemption authorized by subdivision (a) of section 4 of article XIII of the California Constitution, and includes any land owned by the claimant on which the building, structure, or other shelter is situated.

(9) "Replacement primary residence" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is purchased or newly constructed by a claimant as their principal residence, and any land owned by the claimant on which the building, structure, or other shelter is situated.

(10) For purposes of defining "original primary residence," "primary residence," "principal residence," and "replacement primary residence," the following shall apply:

(A) Land constituting a part of the property includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes:

(i) Land for which the claimant either holds a leasehold interest described in subdivision (c) of section 61 of the Revenue and Taxation Code or a land purchase contract; and

(ii) An ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of section 62.1 of the Revenue and Taxation Code.

(B) Each unit of a multiunit dwelling shall be considered a separate primary residence.

(C) For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(11) "Sale" means any change in ownership of the original primary residence for consideration.

(12) "Social security number" also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(13) "Victim of a wildfire or natural disaster" means the owner of an original primary residence that has been substantially damaged as a result of a wildfire or natural disaster that amounts to more than 50 percent of the improvement value of the original primary residence immediately before the wildfire or natural disaster. For purposes of this paragraph, "damage" includes a diminution in the value of the original primary residence as a result of restricted access caused by the wildfire or natural disaster.

(14) "Wildfire" means an unplanned, unwanted wildland fire, including unauthorized human-caused fires, escaped wildland fire use events, escaped prescribed fire projects, and all other wildland fires where the objective is to extinguish the fire.

(d) Claim Filing.

(1) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form designed by the State Board of Equalization and that the assessor shall make available upon request, the following information:

(A) The name and social security number of each claimant who is a record owner of the replacement primary residence.

(B) Proof that the claimant was, at the time of the sale of the original primary residence, at least 55 years of age, or severely disabled, or the victim of a wildfire or natural disaster. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. Proof of severe disability shall be considered a certification, signed by a licensed physician or surgeon of appropriate specialty, attesting to the claimant's severely disabled condition. In the case of a severely disabled claimant, either of the following shall also be submitted:

(i) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement primary residence and the disability-related requirements, including any locational requirements, of a replacement primary residence. The claimant shall substantiate that the replacement primary residence meets disability-related requirements so identified and that the primary reason for the move to the replacement primary residence is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably

presumed that the primary purpose of the move to the replacement primary residence is to satisfy identified disability-related requirements.

(ii) The claimant's substantiation that the primary purpose of the move to the replacement primary residence is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(C) The address and, if known, the assessor's parcel number of the original primary residence.

(D) The date of the claimant's sale of the original primary residence and the date of the claimant's purchase or new construction of the replacement primary residence.

(E) A statement by the claimant that they occupied the replacement primary residence as their principal place of residence on the date of the filing of their claim.

(F) Any claim under this section shall be filed within three years of the date of the purchase of or the completion of new construction of the replacement primary residence.

(2) A claim for transfer of base year value under this section that is filed after the expiration of the filing period set forth in subparagraph (F) of paragraph (1) of this rule shall be considered by the assessor, subject to all of the following conditions:

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

(B) The base year value of the replacement primary residence in the assessment year described in subparagraph (A) of paragraph (1) of this rule shall be the base year value of the replacement primary residence, as calculated in subdivision (b), for the assessment year the replacement primary residence was purchased or newly constructed, adjusted to the assessment year described in subparagraph (A) of paragraph (1) of this rule for all of the following:

(i) Inflation, as annually determined in accordance with paragraph (1) of subdivision (a) of section 51 of the Revenue and Taxation Code.

(ii) Any subsequent new construction occurring with respect to the subject real property that does not qualify for property tax relief pursuant to the criteria set forth in subparagraphs (A) and (B) of paragraph (4) of subdivision (e) of this rule.

Example 9: Owner purchased a replacement primary residence on March 1, 2021 for \$680,000. Owner sold their original primary residence on March 1, 2022 for \$700,000. The factored base year value of the Owner's original primary residence at the time of sale was \$300,000. Owner files a claim for a base year value transfer on February 3, 2025. While the Owner is still eligible to file a claim for the base year value transfer, since the claim was not filed

within three years of the purchase of the replacement primary residence, the base year value of the original primary residence is transferred to the replacement primary residence as of lien date January 1, 2025, the lien date of the assessment year in which the claim is filed, rather than the date the original primary residence was sold. Thus, the new base year value to be enrolled for the 2025-26 fiscal year is \$300,000 multiplied by the inflation adjustment factor each year until 2025.

(3) To ensure no claimant exceeds the limit on transfers imposed by paragraph (6) of subdivision (a) of this rule, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (e) of this rule and from county records, as is specified by the board, necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and the identity and location of the replacement dwelling to which the claim applies.

(4) 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 claimant or the claimant's spouse, the claimant's or the claimant's spouse's legal representative, the trustee of a trust in which the claimant or the claimant's spouse is a present beneficiary, and the executor or administrator of the claimant's or the claimant's spouse's estate.

(e) Timing of Transfer.

(1) Upon the timely filing of a claim for relief under this section, the assessor shall adjust the new base year value of the replacement primary residence in conformity with subdivision (b) of this rule. This adjustment shall be made as of the latest of the following dates:

(A) The date the primary residence is sold.

(B) The date the replacement primary residence is purchased.

(C) The date the new construction of the replacement primary residence is completed.

(2) Any taxes that were levied on the replacement primary residence prior to the filing of the claim on the basis of the replacement primary residence's full cash value at the time of purchase or new construction, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

Example 2: Owner purchased a replacement primary residence on March 1, 2021. The assessor processed a change in ownership and reassessed the property. Owner sold their original primary residence on March 1, 2022. Owner files a claim for a base year value transfer on February 1, 2024. Since the claim was filed within three years of the purchase of the replacement primary residence, the base year value of the original primary residence is transferred to the replacement primary residence as of March 1, 2022, if owner meets all the other conditions and requirements of this section. Any taxes that were levied on the replacement primary residence for

the period March 1, 2022 to January 31, 2024, as a result of the change in ownership processed on March 1, 2021, will be canceled or will be refunded.

(3) Notwithstanding section 75.10, chapter 3.5 of the Revenue and Taxation Code (commencing with section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement primary residences acquired prior to the sale of the primary residence.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement primary residence subsequent to the transfer of base year value, the property tax relief provided by this section shall also apply to the replacement primary residence, as improved, and, thus, there shall be no reassessment upon completion of the new construction to the extent both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original primary residence and the owner notifies the assessor in writing of completion of the new construction within six months after completion.

(B) The full cash value of the new construction on the date of completion, plus the full cash value of the replacement primary residence on the date of acquisition, is not more than the full cash value of the original primary residence.

Example 11: Owner sold their original primary residence on May 10, 2021 for \$700,000. Owner purchased a replacement primary residence on March 1, 2022 for \$500,000, and filed a base year value transfer claim on March 15, 2022. On April 1, 2022, Owner began to construct an addition to the replacement primary residence and completed new construction on March 1, 2023. The value of the completed new construction was \$100,000. Owner notified the assessor of the completion of the new construction on May 1, 2023. Subject to all the other conditions and requirements of this section, since the full cash value of the new construction (\$100,000) plus the full cash value of the replacement primary residence on the date of purchase (\$500,000) is not more than the full cash value of the original primary residence (\$700,000), the new construction will not be reassessed.

Example 12: The factored base year value of Owner's original primary residence is \$300,000. Owner sold their original primary residence on May 10, 2021 for \$700,000. Owner purchased a replacement primary residence on March 1, 2022 for \$500,000, and filed a base year value transfer claim on March 15, 2022. On April 1, 2022, Owner began to construct an addition to the replacement primary residence and completed new construction on March 1, 2023. The value of the completed new construction was \$250,000. Owner notified the assessor of the completion of new construction on May 1, 2023. Subject to all the other conditions and requirements of this section, since the full cash value of the new construction (\$250,000) plus the full cash value of the replacement primary residence on the date of purchase (\$500,000) is more than the full cash value of the original primary residence (\$700,000), the new base year value of the replacement primary residence is \$350,000 (\$300,000 factored base year value of original primary residence plus \$50,000, which is the difference between (1) the sum of the full cash value of the

replacement primary residence (\$500,000) plus the full cash value of the new construction (\$250,000), and (2) the full cash value of the original primary residence (\$700,000).

(f) Multiple Owners. The property tax relief provided by this section shall be available to a claimant who is the co-owner of an original primary residence as a joint tenant, a tenant in common, a community property owner, or a present beneficiary of a trust subject to the following limitations:

(1) If a single replacement primary residence is purchased or newly constructed by all of the co-owners and each co-owner retains an interest in the replacement primary residence, the claimant shall be eligible under this section whether or not any or all of the remaining co-owners would otherwise be eligible claimants.

(2) If two or more replacement primary residences are separately purchased or newly constructed by two or more co-owners and more than one co-owner would otherwise be an eligible claimant, only one co-owner shall be eligible under this section. These co-owners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement primary residences are separately purchased or newly constructed by two co-owners who held the primary residence as community property, and both spouses would otherwise be an eligible claimant, only one spouse shall be eligible under this section. They shall determine by mutual agreement which one of them is eligible.

(4) In the case of co-owners whose original primary residence is a unit in a multiunit dwelling, the limitations imposed by paragraph (3) of subdivision (f) of this rule shall only apply to co-owners who occupied the same primary residence within the multiunit dwelling at the time specified in paragraph (2) of subdivision (b) of this rule.

(g) Multiunit Property and Mobilehomes. The property tax relief provided by this section shall be available if the claimant's original primary residence or the replacement primary residence, or both, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development.

(A) If the unit or lot constitutes the original primary residence of the claimant, the assessor shall transfer to the claimant's replacement primary residence only the factored base year value of the claimant's unit or lot and their share in any common area reserved as an appurtenance of that unit or lot.

(B) If the unit or lot constitutes the replacement primary residence of the claimant, the assessor shall transfer the factored base year value of the claimant's primary residence only to the unit or lot of the claimant and their share in any common area reserved as an appurtenance of that unit or lot.

(2) A manufactured home or a manufactured home and any land owned by the claimant on which the manufactured home is situated.

(A) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's original primary residence, the assessor shall transfer to the claimant's replacement primary residence either the factored base year value of the manufactured home or the factored base year value of the manufactured home and the land on which it is situated, as appropriate. If the manufactured home that constitutes the original primary residence of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer to the claimant's replacement primary residence the factored base year value of the claimant's manufactured home and their pro rata portion of the real property of the park. No transfer of factored base year value shall be made by the assessor of that portion of land that does not constitute a part of the original primary residence, as provided in paragraph 10 of subdivision (c) of this rule.

(B) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's replacement primary residence, the assessor shall transfer the factored base year value of the claimant's original primary residence either to the manufactured home or the manufactured home and the land on which it is situated, as appropriate. If the manufactured home that constitutes the replacement primary residence of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the factored base year value of the claimant's primary residence to the manufactured home of the claimant and their pro rata portion of the park. No transfer of factored base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement primary residence, as provided in paragraph (10) of subdivision (c) of this rule.