STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT
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www.boe.ca.gov

September 30, 2022

No. 2022/046

TO COUNTY ASSESSORS, COUNTY COUNSELS,
AND OTHER INTERESTED PARTIES:

NOTICE OF PUBLICATION OF NOTICE OF PROPOSED REGULATORY ACTION FOR CALIFORNIA CODE OF REGULATIONS, TITLE 18, SECTION 462.540, *CHANGE IN OWNERSHIP – BASE YEAR VALUE TRANSFERS*

The State Board of Equalization (Board) is providing notice to the public regarding amendments to California Code of Regulations, title 18, section (Property Tax Rule or Rule) 462.540*, Change in Ownership – Base Year Value Transfers.* A copy of the Notice of Proposed Regulatory Action is available here: https://boe.ca.gov/regs/regscont.htm.

Official notice of the Rule as required by the Office of Administrative Law (OAL) was made to OAL on September 20, 2022. OAL's posting of the proposed amendments to the California Regulatory Notice Register on its website on September 30, 2022, will begin a 45-day comment period during which any interested person may submit written comments regarding the proposed amendments to Property Tax Rule 462.540.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. on November 17, 2022, or as soon thereafter as the matter may be heard at the Board's November 17 – 18, 2022 meeting. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of Property Tax Rule 462.540.

Written comments may be sent to the Board's Regulation Coordinator, Honey Her, by email at honey.her@boe.ca.gov or by mail to:

> State Board of Equalization, Legal Department
> Attn: Honey Her, MIC: 121
> P.O. Box 942879
> Sacramento, CA 94279-0121

A copy of the Notice of Proposed Regulatory Action is attached and available on the Board's website at https://boe.ca.gov/regs/regscont.htm.

Questions regarding the substance of Rule 462.540 should be directed to Honey Her, Regulations Coordinator, by telephone at 1-916-274-3523, by e-mail at Honey.Her@boe.ca.gov, or by mail to California State Board of Equalization, Legal Department.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:mc
Enclosure

Notice of Proposed Regulatory Action

The State Board of Equalization Proposes to Amend

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 amend 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 provisions provided in section 2.1 of article XIII A of the California Constitution (Section 2.1) and section 69.6 of the Revenue and Taxation Code.[1]

PUBLIC HEARING

The Board will conduct a meeting on November 17-18, 2022, in-person and via teleconference. 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 November 17, 2022, or as soon thereafter as the matter may be heard at the Board's November 17-18, 2022 meeting. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of amendments to Property Tax Rule 462.540 (the Proposed Amendments).

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Article XIII A, section 2.1, California Constitution; and Revenue and Taxation Code sections 60, 69.5, and 69.6.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

<u>Current Law</u>

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 section 60 and

[1] All further statutory references are to the Revenue and Taxation Code unless otherwise indicated.

codified additional Revenue and Taxation Code sections 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. (Rev & Tax. Code §§ 61 through 69.6.)

Relevant to this Rule, voters amended article XIII A of the Constitution several times to provide specified conditions permitting the transfer of a property's base year value from a current, or original, principal residence to a replacement principal residence. Most recently, at the November 3, 2020, general election, the voters amended the constitution by approving Proposition 19. Proposition 19 defined eligibility conditions for persons, who are age 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) to article XIII A).

On September 30, 2021, the Governor approved Senate Bill (SB) 539,[2] which, among other things, added section 69.6 to the Revenue and Taxation Code. SB 539 went into immediate effect. Section 69.6 codifies the provisions of Proposition 19 generally providing that any person over 55 years of age, or any severely and permanently disabled person, or a victim of wildfire or natural disaster who resides in property that is eligible for either the homeowners' exemption or the disabled veterans' exemption may transfer the factored base year value of that property to any replacement dwelling that is purchased or newly constructed by that person as their principal residence within two years of the sale by that person of the original property.

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

Under the authority of Government Code section 15606, subdivision (c), which authorizes the Board to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing, the Board adopted Property Tax Rule 462.540, *Change in Ownership – Base Year Value Transfers*, to implement, interpret, and make specific the base year value transfer provisions instituted by Proposition 19 through the regular rulemaking process. Rule 462.540 became effective on January 1, 2022.

Following the promulgation of Rule 462.540, additional amendments were deemed necessary to further implement, interpret, and make specific Proposition 19 and section 69.6. Pursuant to authority granted under section 69.6, amendments to the Rule were made through the emergency rulemaking process. The emergency amendments became effective on July 18, 2022 and will expire on January 18, 2023. To make the emergency amendments to Rule 462.540 permanent and to make additional amendments to the Rule, the Board initiated the certificate of compliance and regular rulemaking process.

The emergency amendments to Rule 462.540 made the following changes:

- Improve clarity. These amendments strike out the existing language at subdivision (b)(3) and places substantially the same language in subdivision (c)(3). Further, the word "dwelling" is changed to "primary residence" in subdivision (d)(3) of the Rule to make consistent with the remainder of the Rule.

[2] Statutes 2021, chapter 427, section 3.

- Definition of "severely and permanently disabled." Proposition 19 allowed "severely disabled" persons to qualify for the base year value transfer but did not define "severely disabled." The Legislature, under its authority to enact statutes that provide applicable procedures and definitions for Proposition 19, enacted section 69.6 to allow the base year value transfer to "severely and permanently disabled" persons. Although the term "severely and permanently disabled" is not defined in section 69.6, it is defined in section 69.5, subdivision (g)(12) by reference to section 74.3, subdivision (b). This action amends subdivisions (a) and (d)(1)(B) of the Rule to add "and permanently" to "severely disabled" to be consistent with section 69.6. It also adds a definition of "severely and permanently disabled" at subdivision (c)(14) that is the definition provided in section 69.5 of the same phrase since by making the phrases the same, the Legislature has signaled its intent to make the qualification for disabled individuals the same for section 69.6 as in section 69.5.

- "Equal or lesser value." Section 69.6, subdivision (d)(13) added a definition of the phrase "equal or lesser value." This definition requires, depending on the time the replacement dwelling is purchased in relation to the sale of the original property, the full cash value of the original property to be adjusted not at all, by an increase of five percent, or by an increase of 10 percent. The phrase "greater value," while not explicitly defined, in context, must mean a value that is not of "equal or lesser value." These amendments add the definition of "equal or lesser value" to subdivision (c)(2), and a definition of "greater value" to subdivision (c)(5).

  Subdivision (b)(2) of Rule 462.540 is amended to include the adjustment provided by subdivision (c)(2) when calculating the amount to be transferred to the replacement primary residence, and Example 8 is amended to demonstrate the calculation of the amount to be transferred to the replacement primary residence.

  Subdivision (f)(2) of this Rule is amended to clarify that the adjustment provided by subdivision (c)(2) when calculating the amount to be transferred to a replacement primary residence that is newly constructed after an initial claim for the base year value transfer has already been granted is to be made.

- Accessory Dwelling Units. Section 69.6, subdivision (d)(5) added the provision that a multiunit dwelling does not include an accessory dwelling unit or junior accessory dwelling unit meeting several conditions. Subdivision (g)(3) of this Rule adds these conditions to the Rule and further provides definitions of "accessory dwelling unit" and "junior accessory dwelling unit" by reference to the Government Code provisions that govern the building of accessory dwelling units and junior accessory dwelling units.

- Misfortune/Calamity. Section 69.5 stated that taxpayers that experienced a misfortune or calamity to their principal residence were eligible to use the pre-misfortune or calamity full cash value of their principal residence for the required comparison of full cash value with a replacement property. The explicit language explaining this calculation was added to section 69.5 by Stats. 2001, ch. 613 (SB 1184), § 2. Legislative intent in SB 1184 explained that the addition of that language was a mere clarification. Since section 69.6 contains the same language as section 69.5 prior to the clarification added by SB 1184, its interpretation should be the same. Therefore, subdivisions (a)(2), (c)(3), and (c)(4) of this Rule are amended to make clear that full cash value of properties damaged by misfortune or calamity compared to the full cash value of the replacement dwelling should be the full cash value of that property prior to the misfortune or calamity. Subdivision (c)(16) provides a definition of "substantially damaged or destroyed by misfortune or calamity" to make clear the amount of damage that must be done to a property to be eligible to use the pre-misfortune or calamity full cash value of the original property.

- New construction on previously owned land. Amendments to subdivisions (a)(4), (f)(1) and (f)(3), as well the addition of subdivisions (c)(4)(C) and (c)(4)(D), as well as the addition of Example 12, clarify that land can be acquired more than two years prior to the sale of the original property, and that the full cash value of both the land and the improvement is to be determined as of the new construction completion date, as required for section 69.5 by *Wunderlich v. Santa Cruz* (2009) 178 Cal.App.4th 680. In other words, the amendments clarify that underlying land may be acquired more than 2 years prior to sale of the original property (subd. (a)(4)), and if new construction is completed within two years of the original property's sale, the full cash value of the replacement property includes the new construction, based on the date of new construction completion, for purposes of the base year value transfer calculation (subds. (c)(4)(D), (f)(3), Ex. 12). If the claim transferring the base year value has already been approved as of the date of new construction completion, the additional value of the new construction is taken into consideration in calculating the transferred base year value (subd. (c)(4)(C), (f)(1)).

Additional amendments to Rule 462.540 make the following changes:

- Subdivision (c)(3) was amended to clarify that the "pre-event" factored base year value may be used for wildfire or natural disasters as well as misfortune or calamity.

The above clarifications are reasonably necessary for the efficient and fair administration of the change in ownership provisions under section 69.6 and section 2.1 of article XIII A of the California Constitution applicable to base year value transfers. The Board anticipates that the Proposed Amendments 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 section 69.6. Portions of the Proposed Amendments may duplicate or overlap language found in Revenue and Taxation Code section 69.6 or in Section 2.1 of article XIII A; however, the "nonduplication" standard found at Government Code section 11349.1, subdivision (a)(6) is met because, pursuant to California Code of Regulations, title 1, section 12, subdivision (b)(1), the duplication or overlap is necessary to satisfy the "clarity" standard of Government Code section 11349.1, subdivision (a)(3). Without the duplication or overlap, the rule would be incomplete or unclear.

The Board has performed an evaluation of whether the amendments to proposed Property Tax Rule 462.540 are inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Amendments are 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 amendments to the Rule. In addition, there is no comparable federal regulation or statute to Property Tax Rule 462.540.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

Section 5 of SB 539 states that "[n]o reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the duties imposed on a local agency or school district by this act are necessary to implement, or were expressly included in, a ballot measure approved by the voters in a statewide or local election, within the meaning of Section 17556 of the Government Code." Thus, the Proposed Amendments do not impose a mandate on a local agency that is reimbursable. The Board has also determined that the adoption of the Proposed Amendments 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.

FISCAL IMPACT

Board staff estimated that the amendments to this rule will result in an absorbable one-time cost of $923 for the Board to communicate with interested parties and update its website after the rule amendment is completed assuming that the average hourly compensation costs are $57.66 per hour[3] and that it will take approximately 16 hours. There will be no savings. The Board has determined that the adoption of the Proposed Amendments 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 Amendments 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.

SMALL BUSINESS

The adoption of the Proposed Amendments is not expected to affect small business since the rule only potentially affects the owners of family farm small businesses but not the business itself.

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.

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[3] Source: Hourly compensation costs are from the U.S. Bureau of Labor Statistics. Hourly compensation costs are for State and Local Government Workers. *Employer Costs for Employee Compensation – December 2021*: *Table 3. Employer Costs for Employee Compensation for state and local government workers by occupational and industry group*, https://www.bls.gov/news.release/ecec.htm.

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 Amendments are 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 Amendments and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Amendments 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 Amendments 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 the Proposed Amendments to 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 Amendments 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, 450 N Street, 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 Ms. Honey Her, Regulations Coordinator, by telephone at (916) 274-3523, by e-mail at honey.her@boe.ca.gov, or by mail at State Board of Equalization, Attn: Honey Her, MIC: 121, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0121. Ms. Her is the designated backup contact person to Mr. Nanjo.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on November 17, 2022, or as soon thereafter as the Board holds the public hearing regarding the Proposed Amendments during the November 17-18, 2022 Board meeting. Written comments received by Ms. Honey Her 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 Amendments. 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 a version of the Proposed Amendments to Property Tax Rule 462.540 illustrating the express terms of the Proposed Amendments and an initial statement of reasons for the adoption of the Proposed Amendments, 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 Amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 160 Promenade Circle, Suite 200, Sacramento, CA 95834. The express terms of the Proposed Amendments 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 Amendments 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 Proposed Amendments 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 Ms. Her. 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 Amendments, the Board will prepare a final statement of reasons, which will be made available for inspection at 160 Promenade Circle, Suite 200, Sacramento, CA 95834, and available on the Board's website at www.boe.ca.gov.

[TEXT OF PROPOSED AMENDMENTS IN UNDERLINE AND STRIKEOUT]

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 and permanently 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 located anywhere in this state, 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 when the original primary residence was substantially damaged or destroyed by misfortune or calamity, 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. The land on which a building, structure, or other shelter constituting a place of abode is newly constructed need not be purchased 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 of greater value 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 adjusted pursuant to subdivision (c)(2) of this rule, 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 on June 1, 2021. Owner purchases a replacement primary residence for $600,000 on August 1, 2021. Since the full cash value of Owner's replacement primary residence ($600,000) is greater than 105 percent of the full cash value of the original primary residence ($577,500 = $550,000 multiplied by 1.05), the new base year value of the replacement primary residence is $322,500 ($300,000 factored base year value of original primary residence plus $22,500, which is the difference between the full cash value of the replacement primary residence ($600,000) and the adjusted full cash value of the original primary residence ($577,500)).

(c) DEFINITIONS. For purposes of this section:

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

(2) "Equal or lesser value" means that the amount of the full cash value of a replacement primary residence does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original primary residence if the replacement primary residence is purchased or newly constructed prior to the date of the sale of the original primary residence.

(B) One hundred and five percent of the amount of the full cash value of the original primary residence if the replacement primary residence is purchased or newly constructed within the first year following the date of the sale of the original primary residence.

(C) One hundred and ten percent of the amount of the full cash value of the original primary residence if the replacement primary residence is purchased or newly constructed within the second year following the date of the sale of the original primary residence.

(3) "Factored base year value" means the amount determined pursuant to subdivision (f) of section 110.1 of the Revenue and Taxation Code as of the date immediately prior to the date that the original primary residence is sold by the claimant, or in the case where the original primary residence has been substantially damaged or destroyed by misfortune or calamity <u>or the owner is a victim of wildfire or natural disaster</u> and the owner does not repair or rebuild the original primary residence, determined as of the date immediately prior to the misfortune or calamity <u>or the wildfire or natural disaster</u>. If the replacement primary residence is purchased or newly constructed after the transfer of the primary residence, "factored base year value of the primary residence" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement primary residence was purchased or newly constructed. The base year or years used to compute the "factored base year value of the primary residence" shall be deemed to be the base year or years of any property to which that base year value is transferred.

(4) "Full cash value" means full cash value, as defined in section 110 of the Revenue and Taxation Code.

(A) For purposes of this section, the full cash value of the original primary residence shall be determined as of the date of its sale.

(B) In the case where the claimant is a victim of a wildfire or natural disaster or the original primary residence has been substantially damaged or destroyed by misfortune or calamity, and the owner does not rebuild on the property, 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 or misfortune or calamity, 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 newly constructed.

(C) The full cash value of the replacement primary residence shall be determined as of the date the replacement primary residence is purchased or newly constructed. If new construction is completed after a base year value transfer claim has been approved as provided for in subdivision (f) of this rule, the full cash value of only the new construction will be determined as of the date of completion of new construction.

(D) The full cash value of the replacement primary residence, both the land and the building, structure, or other shelter constituting a place of abode, shall be determined as of the date the building, structure, or other shelter constituting a place of abode is newly constructed.

(5) "Greater value" means a value that is not of "equal or lesser value".

(6) "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.

(7) "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.

(8) "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.

(9) "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.

(10) "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.

(11) "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.

(12) 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.

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

(14) "Severely and permanently disabled" means any person described in subdivision (b) of section 74.3 of the Revenue and Taxation Code.

(15) "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.

(16) Property is "substantially damaged or destroyed by misfortune or calamity" if either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land's or the improvement's full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity.

(17) "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.

(18) "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 and permanently 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 and permanent disability shall be considered a certification, signed by a licensed physician or surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the case of a severely and permanently 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 subdivision (d) 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 (2) of subdivision (d) of this rule shall be the base year value of the replacement primary residence, as calculated in subdivision (b) of this rule, for the assessment year the replacement primary residence was purchased or newly constructed, adjusted to the assessment year described in subparagraph (A) of paragraph (2) of subdivision (d) 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 (7) 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 (d) 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 primary residence 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 original 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 10: 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.

(f) NEW CONSTRUCTION

(1) 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 of the replacement primary residence upon completion of the new construction if 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.

(2) If 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 of equal or lesser value than the full cash value of the original primary residence adjusted pursuant to subdivision (c)(2) of this rule, the new base year value of the replacement primary residence shall remain the factored base year 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.

(3) If 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 of greater value than the full cash value of the original primary residence adjusted pursuant to subdivision (c)(2) of this rule, the new base year value of the replacement primary residence shall be the difference between the full cash value of the replacement primary residence plus the value of the new construction and the full cash value of the original primary residence adjusted pursuant to subdivision (c)(2) of this rule, plus the factored base year value of the original primary residence.

Example 12: Owner sold their original primary residence for $700,000 when the factored base year value was $300,000. Several months later, owner purchased a replacement primary residence for $500,000, and filed a base year value transfer claim. After the claim was accepted, Owner began to construct an addition to the replacement primary residence and completed new construction later that year. The value of the completed new construction was $250,000. 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 adjusted full cash value of the original primary residence ($735,000 = $700,000 multiplied by 1.05), the new base year value of the replacement primary residence is $315,000 ($300,000 factored base year value of original primary residence plus $15,000, 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 adjusted full cash value of the original primary residence ($735,000)).

(g) 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 the dwelling was the claimant's original primary residence.

(h) 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, 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.

(3) Accessory dwelling units or junior accessory dwelling units.

(A) Accessory dwelling units or junior accessory dwelling units shall not be considered a separate primary residence or a separate replacement primary residence if:

(i) there is a dwelling unit on the property;

(ii) the only other units on the real property are accessory dwelling units or junior accessory dwelling units;

(iii) any accessory dwelling units and junior accessory dwelling units are not separately alienable from the title of any other dwelling unit on the property; and

(iv) the claimant occupies one of the structures as their primary residence.

(B) "Accessory dwelling unit" has the same meaning as defined in subdivision (j)(1) of section 65852.2 of the Government Code.

(C) "Junior accessory dwelling unit" has the same meaning as defined in subdivision (h)(1) of section 65852.22 of the Government Code.

NOTE: Authority cited: Section 15606, Government Code. *Reference:* Article XIII A, Sections 2 and 2.1, California Constitution; and Sections 60, 69.5, and 69.6, Revenue and Taxation Code.

History: Adopted August 24, 2021, effective January 1, 2022.