



ANTONIO VAZQUEZ
CHAIRMAN
CALIFORNIA STATE BOARD OF EQUALIZATION

MEMORANDUM

Date: March 31, 2021

To: Brenda Fleming, Executive Director
State Board of Equalization

Henry Nanjo, Chief Counsel
State Board of Equalization

From: Antonio Vazquez, Chairman
State Board of Equalization

Re: **Proposed Language & Edits to Rule 462.520, Exclusion from Change in Ownership for Intergenerational Transfers.**

In response to LTA No. 2021/010, my office is submitting the following proposed language for proposed Rule 462.520 (shown in red font in the sections and subdivisions below), in order to help simplify and clarify for it the public and to make it consistent with other property tax rules on "change in ownership."

RULE 462.520. EXCLUSION FROM CHANGE IN OWNERSHIP – INTERGENERATIONAL TRANSFERS.

Authority: Section 15606, Government Code.

References: Article XIII A, Section 2.1, California Constitution; and Section 60, Revenue and Taxation Code.

(a) General. Beginning on and after February 16, 2021, "change in ownership" shall include the transfer of any interest in real property between parents and their children or between grandparents and their grandchildren under Revenue & Taxation Code section 60 and other applicable RTC sections and Property Tax Rules, unless it which is the transfer of an interest in a principal residence or the family farm of an eligible transferor to an eligible transferee in the case of transfers between parents and their children or between grandparents and their grandchildren meeting the following conditions for exclusion:

(Reasons for proposal in (a): The revised language in (a) above enables the reader to understand that ALL types of property transfers (including those formerly permitted under Prop 58) are now a "change in ownership," unless they meet these specific requirements listed.

Further, the revised language is consistent with the pattern/model for most other Property Tax Rules on change in ownership in the Board's section 462 series.)

(b) Valuation. The assessed value of the principal residence or family farm shall meet the value test that compares the fair market value of the property to the sum of the transferor's factored base year value, plus \$1,000,000. If that sum is more, then the fair market value beyond this sum is added to the transferor's factored base year value to determine the transferee's new taxable value. If the sum is less, then no adjustment is needed.

(1) Definitions. The following definitions govern the construction of the words or phrases used in this section:

(A) "New Taxable Value" means the Factored Base Year Value of the property immediately before the transfer, plus any "Excess Amount."

(B) "Factored Base Year Value" means the Adjusted Base Year Value as determined under Revenue and Taxation Code section 110.1, with the permitted adjustments.

(C) "New Base Year Value" means the property's Full Cash Value or Fair Market Value on the date of transfer multiplied by the ownership percentage in the property transferred plus the Factored Base Year Value of the ownership percentage not transferred.

(Reasons for proposal in (b): The proposed language in (b) above is intended to provide the reader with a general summary of the basic "value test" that the assessor will be using for the exclusion. The definitions in (b)(1) are proposed in order to clarify the meanings of the new value language used in Prop 19 and now in this Rule. This is consistent with the pattern/model for Rule 462.500 where a separate test and new terms were added by a constitutional amendment and statute.)

~~(12)~~ Upon transfer, the principal residence or family farm obtains a new base year value equal to its full cash value on the date of transfer multiplied by the percent ownership of the principal residence or family farm transferred plus the factored base year value of the percent ownership of the principal residence or family farm not transferred.

~~(23)~~ If a transferee meets the requirements for exclusion under this section, the principal residence or family farm will be assessed at its New Taxable Value in accordance with subdivision (c) of this rule rather than its new base year value.

~~(34)~~ When the real property is no longer the principal residence or the family farm of an eligible transferee as required by subdivision (a)(2) of this rule, the new taxable value upon removal of the exclusion shall be determined pursuant to subdivision (d) of this rule.

Example 1: Parent transfers 100 percent interest in their principal residence to Child. On March 1, 2021, the date of transfer, the principal residence has a factored base year value of \$250,000 and a full cash value of \$900,000. The principal residence's new base year value is \$900,000. If Child meets the requirements for exclusion under this section, the principal residence will be assessed at its New Taxable Value, in accordance with subdivision (c) of this rule, rather than its new base year value.

Example 2: Parent transfers 75 percent interest in their principal residence to Child and retains 25 percent interest. On March 1, 2021, the date of transfer, the principal residence has a factored base year value of \$250,000 and a full cash value of \$900,000. The principal residence's new base year value is \$675,000 (\$900,000 full cash value multiplied by the 75 percent interest transferred to Child) plus \$62,500 (\$250,000 factored base year value multiplied by the 25 percent interest retained by Parent) equals \$737,500. If Child meets the requirements for exclusion under this section, the principal residence will be assessed at its New Taxable Value, in accordance with subdivision (c) of this rule, rather than its new base year value.

(c) New Taxable Value. The New Taxable Value of the principal residence or family farm shall be the sum of the amounts calculated in paragraphs ~~(12)~~ through ~~(34)~~:

(Reasons for Proposed Language in the Section (c) Examples. The proposed "subtitles" shown in red below as headings for Example 3, 3-1 and 3-2; Example 4, 4-1 and 4-2; Example 5, 5-1 and 5-2, and Example 6 are intended to provide context and focus the reader on the key subject of each, thereby making it easier and more efficient for assessors' staff, practitioners, and taxpayers to locate the provisions that may be applicable to their respective situations.)

(1) Eligible Transferee's New Taxable Value: the sum of the factored base year value of the principal residence or family farm immediately prior to the date of transfer plus any Excess Amount. This amount shall be multiplied by the percent interest of the principal residence or family farm transferred to eligible transferees.

(A) "Excess Amount" means the full cash value of the principal residence or family farm on the date of transfer minus the Excluded Amount. If this amount is less than or equal to zero, the Excess Amount is zero.

(B) "Excluded Amount" means the factored base year value of the principal residence or family farm immediately prior to the date of transfer plus \$1,000,000, adjusted pursuant to subdivision (g) of this rule.

(2) Noneligible Transferee's New Taxable Value: the full cash value of the principal residence or family farm on the date of transfer multiplied by the percent interest transferred to noneligible transferees.

(3) Factored Base Year Value of Non-Transferred Interest: the factored base year value of the principal residence or family farm immediately prior to the date of transfer multiplied by the percent interest not transferred.

(4) The New Taxable Value shall be adjusted by an inflation factor, as provided in subdivision (a) of section 51 of the Revenue and Taxation Code.

Example 3: **Calculating the Excess Amount.** On March 1, 2021, Parents' principal residence has a factored base year value of \$250,000. The Excluded Amount is \$1,250,000 (\$1,000,000 plus \$250,000 factored base year value). Parents transfer 100 percent interest in their principal residence to Child on March 1, 2021.

Examples 3-1 and 3-2 demonstrate alternatives using the facts described in Example 3.

Example 3-1: The principal residence has a full cash value of \$900,000 on the date of transfer. Since \$900,000 is less than the \$1,250,000 Excluded Amount, the Excess Amount is zero. Therefore, the New Taxable Value on the date of transfer is the factored base year value of \$250,000.

Example 3-2: Zero Excess Amount. The principal residence has a full cash value of \$1,300,000 on the date of transfer. Since the full cash value of the principal residence (\$1,300,000) is greater than the \$1,250,000 Excluded Amount, there is an Excess Amount of \$50,000. Therefore, the New Taxable Value of the principal residence on the date of transfer is \$300,000 (\$250,000 factored base year value plus \$50,000 Excess Amount).

Example 4: Some Excess Amount. On March 1, 2021, Parents' principal residence has a factored base year value of \$250,000. The Excluded Amount is \$1,250,000 (\$1,000,000 plus \$250,000 factored base year value). Parents transfer 75 percent interest in their principal residence to Child and the remaining 25 percent interest to Nephew on March 1, 2021.

Examples 4-1 and 4-2 demonstrate alternatives using the facts described in Example 4.

Example 4-1: Calculating Transfer to a Noneligible Transferee. The principal residence has a full cash value of \$900,000 on the date of transfer. Since \$900,000 is less than the \$1,250,000 Excluded Amount, the Excess Amount is zero. Therefore, the Eligible Transferee's New Taxable Value on the date of transfer is \$187,500 (\$250,000 factored base year value multiplied by the 75 percent interest transferred to Child). Since 25 percent of the principal residence is transferred to Nephew, a non-eligible transferee, the Noneligible Transferee's New Taxable Value is \$225,000 (\$900,000 full cash value multiplied by the 25 percent interest transferred to Nephew). Thus, the New Taxable Value of the principal residence is \$412,500 (\$187,500 plus \$225,000).

Example 4-2: Calculating Transferee to a Noneligible Transferee; Zero Excess Amount. The principal residence has a full cash value of \$1,300,000 on the date of transfer. Since \$1,300,000 is greater than the \$1,250,000 Excluded Amount, the Excess Amount is \$50,000. Since 75 percent interest in the principal residence was transferred to Child, the Eligible Transferee's New Taxable Value is \$225,000 (\$250,000 factored base year value plus \$50,000 Excess Amount, multiplied by Child's 75 percent interest). Since 25 percent interest in the principal residence was transferred to Nephew, a non-eligible transferee, the Noneligible Transferee's New Taxable Value is \$325,000 (\$1,300,000 full cash value multiplied by the 25 percent interest transferred to Nephew). Therefore, the New Taxable Value of the principal residence is \$550,000 (\$225,000 plus \$325,000).

Example 5: Calculating Transferee to a Noneligible Transferee; Some Excess Amount. On June 1, 2022, Mother's principal residence has a factored base year value of \$320,000. The Excluded Amount is \$1,320,000 (\$1,000,000 plus \$320,000 factored base year value). Mother's principal residence is owned 60 percent interest by Mother and 40 percent interest by Child. Mother transfers her 60 percent interest to Child. Child meets all intergenerational transfer exclusion requirements, and the exclusion is applied.

Examples 5-1 and 5-2 demonstrate alternatives using the facts described in Example 5.

Example 5-1: Calculating the Effect of Partial Interest Transfers. The full cash value of the principal residence is \$1,100,000 on the date of transfer. Since the Excluded Amount

(\$1,320,000) is greater than the full cash value of the principal residence, the Excess Amount is zero. The Eligible Transferee's New Taxable Value on the date of transfer is \$192,000 (\$320,000 factored base year value multiplied by the 60 percent interest transferred to Child). Since 40 percent interest in the principal residence was already owned by Child and not transferred, the factored base year value of the Non-Transferred Interest is \$128,000 (\$320,000 factored base year value multiplied by the Child's 40 percent interest not transferred). Thus, the New Taxable Value of the principal residence is \$320,000 (\$192,000 plus \$128,000).

Example 5-2: Calculating the Effect of Partial Interest Transfers; Zero Excess Amount. The full cash value of the principal residence is \$1,500,000 on the date of transfer. Since the full cash value of the principal residence (\$1,500,000) is greater than the \$1,320,000 Excluded Amount, there is an Excess Amount of \$180,000. Therefore, the Eligible Transferee's New Taxable Value is \$300,000 (\$320,000 factored base year value plus \$180,000 Excess Amount, multiplied by the 60 percent interest transferred to Child). Since 40 percent interest in the principal residence was already owned by Child and not transferred, the factored base year value of the Non-Transferred Interest is \$128,000 (\$320,000 factored base year value multiplied by the Child's 40 percent interest not transferred). Therefore, the New Taxable Value of the principal residence is \$428,000 (\$300,000 plus \$128,000).

Example 6: Calculating the Effect of Partial Ownership Interests and Partial Interest Transfers. On June 1, 2022, Mother's principal residence has a factored base year value of \$320,000 and a full cash value of \$1,500,000. The Excluded Amount is \$1,320,000 (\$1,000,000 plus \$320,000 factored base year value). The Excess Amount is \$180,000. Mother's principal residence is owned 60 percent interest by Mother and 40 percent interest by Child. Mother transfers 30 percent interest of her 60 percent interest to Child and her remaining 30 percent interest to Niece. Child meets all intergenerational transfer exclusion requirements, and the exclusion is applied. The Eligible Transferee's New Taxable Value is \$150,000 (\$320,000 factored base year value plus \$180,000 Excess Amount, multiplied by the 30 percent interest transferred to Child). Since 30 percent of the principal residence was transferred to Niece, a non-eligible transferee, the Noneligible Transferee's New Taxable Value is \$450,000 (\$1,500,000 full cash value multiplied by the 30 percent interest transferred to Niece). Since 40 percent interest in the principal residence was already owned by Child and not transferred, the factored base year value of the Non-Transferred Interests is \$128,000 (\$320,000 factored base year value multiplied by the Child's 40 percent interest not transferred). Therefore, the New Taxable Value of the principal residence is \$728,000 (\$150,000 plus \$450,000 plus \$128,000).

(d) Taxable Value Upon Exclusion Removal.

(1) When the real property is no longer the principal residence or the family farm of an eligible transferee as required by subdivision (a)(2) of this rule, the intergenerational transfer exclusion shall be removed from the property, and its new taxable value upon removal shall be the new base year value calculated pursuant to subdivision (b) of this rule, adjusted by an inflation factor, as provided in subdivision (a) of section 51 of the Revenue and Taxation Code through the year the exclusion is lost. This amount shall be further adjusted for any other necessary adjustment, including any part of the real property that changes ownership at the time the exclusion is lost, or that previously changed ownership, or that was newly constructed.

(2) Any portion of the real property not reassessed at the time of the removal of the exclusion shall not be subject to supplemental assessment.

(Reasons for Proposed Language in the Section (d) Examples. The proposed “subtitles” shown in red below as headings for Example 7, 7-1, 7-2, 7-3, and 7-4 and Example 8 are intended to provide context and focus the reader on the key subject of each, thereby making it easier and more efficient for assessors’ staff, practitioners, and taxpayers to locate the provisions that may be applicable to their respective situations.)

Example 7: **Calculating Effect of Removal of Eligible Transferee.** Parent transfers their principal residence 60 percent interest to Son and 40 percent interest to Daughter. On the date of transfer, the principal residence has a factored base year value of \$150,000 and a full cash value of \$800,000. Since 100 percent interest in the principal residence is transferred, the principal residence's new base year value as determined in subdivision (b) of this rule is \$800,000. Son meets all intergenerational transfer exclusion requirements, and the exclusion is applied. The New Taxable Value of the principal residence, pursuant to subdivision (c) of this rule, at the time the exclusion is first applied is \$150,000. Three years later, Son moves out of the principal residence and no longer qualifies for the exclusion. If the inflation factor was 2 percent each of the three years the property was Son's principal residence, the factored base year value of the principal residence at the time Son moves out is \$159,181 (\$150,000 multiplied by the 2 percent adjustment for 3 years).

Examples 7-1 through 7-4 demonstrate alternatives using the facts described in Example 7.

Example 7-1: **Eligible Transferee Rents to a Third Party.** Son and Daughter rent the property to a third party. As of the date the principal residence no longer qualifies for the homeowners' exemption, it no longer qualifies for the intergenerational transfer exclusion. Since 100 percent interest in the property is retained by former eligible transferees (Son and Daughter), the taxable value upon removal of the exclusion is the new base year value established at the time of the transfer (\$800,000) adjusted by the inflation factor for three years. Since the inflation factor was 2 percent each of those three years, the new base year value factored for inflation upon removal of the exclusion is \$848,966 (\$800,000 multiplied by the 2 percent adjustment for 3 years).

Example 7-2: **Eligible Transferee Moves but Another Eligible Transferee Moves In.** Instead of renting the property to a third party, Daughter moves in within one year of Son moving out (which is 3 years after the transfer from Parent) and meets all intergenerational transfer exclusion requirements. Since the property became the principal residence of another eligible transferee (Daughter) within one year, the intergenerational transfer exclusion is not removed. Therefore, the New Taxable Value, which is the factored base year value, of the principal residence remains at \$159,181.

Example 7-3: **Eligible Transferee Sells Interest to Another Eligible Transferee.** Instead of renting the property to a third party, Daughter moves in within one year of Son moving out (which is 3 years after the transfer from Parent) and meets all intergenerational transfer exclusion requirements. At the time Son moves out, he sells his 60 percent interest to Daughter when the full cash value of the principal residence was \$900,000. Although the property became the principal residence of another eligible transferee (Daughter) within one year, since 60 percent interest in the principal residence was transferred to Daughter by Son, 60 percent of the exclusion is removed and 60 percent interest in the principal residence is reassessed, since there is no exclusion from reassessment for transfers between siblings. Therefore, the New Taxable Value upon partial removal of the exclusion is \$603,672, which is equal to the reassessed amount of \$540,000 (\$900,000 multiplied by the 60 percent interest sold to Daughter) plus Daughter's

retained factored base year value of \$63,672 (\$159,181 multiplied by Daughter's 40 percent interest).

Example 7-4: Eligible Transferee Sells Interest to Another Eligible Transferee Who Rents an Interest to a Third Party. Son sells his 60 percent interest to Daughter when the full cash value of the principal residence was \$900,000. Daughter rents the property to a third party. Since 60 percent interest in the principal residence was transferred to Daughter by Son, 60 percent of the principal residence must be reassessed, since there is no exclusion from reassessment for transfers between siblings. Therefore, the reassessed amount is \$540,000 (\$900,000 full cash value multiplied by the 60 percent interest sold to Daughter). Additionally, Daughter's 40 percent interest no longer qualifies for the exclusion. However, Daughter's 40 percent interest is not subject to reassessment at this time, but instead becomes a portion (40 percent) of the new base year value that was established at the time of the original transfer (\$900,000), adjusted by the inflation factor for three years, which was previously excluded from reassessment by the intergenerational transfer exclusion. Since the inflation factor was 2 percent each of those three years, that amount is \$848,966 (\$800,000 multiplied by the 2 percent adjustment for 3 years). \$848,966 multiplied by the 40 percent interest in the real property retained by Daughter is equal to \$339,586. Therefore, the new base year value upon partial reassessment and then removal of the remaining exclusion of the principal residence is \$879,586 (\$540,000 plus \$339,586).

Example 8: Removal of the Exclusion Due to Lack of Occupancy by Eligible Transferees. Parent transfers their principal residence 50 percent interest to Son and 30 percent interest to Daughter, keeping the remaining 20 percent interest for themselves. On the date of transfer, the principal residence has a factored base year value of \$150,000 and a full cash value of \$800,000. Since 80 percent interest in the principal residence was transferred, the principal residence's new base year value as determined in subdivision (b) is \$670,000 (\$800,000 full cash value multiplied by the 80 percent interest transferred to Son and Daughter plus \$150,000 factored base year value multiplied by the 20 percent interest retained by Parent). Son meets all intergenerational transfer exclusion requirements, and the exclusion is applied. The New Taxable Value of the principal residence, pursuant to subdivision (c), at the time the exclusion is first applied is the factored base year value of \$150,000. Three years later, Son moves out of the principal residence. If the inflation factor was 2 percent each of those three years, the factored base year value of the principal residence is \$159,181 (\$150,000 multiplied by the 2 percent adjustment for 3 years). At the time Son moves out, he sells his 50 percent interest to Daughter when the full cash value of the principal residence was \$900,000. Daughter does not use the property as a principal residence and, thus, does not qualify for the intergenerational transfer exclusion. Therefore, the intergenerational transfer exclusion is removed in its entirety. Since 50 percent of the real property was transferred from Son to Daughter, a transfer between siblings for which no exclusion applies, 50 percent of the real property is reassessed. That amount is \$450,000 (\$900,000 full cash value multiplied by the 50 percent interest sold to Daughter). Additionally, the \$670,000 new base year value established at the time of the transfer multiplied by the 2 percent adjustment for three years is equal to \$711,009. This amount must be multiplied by the percent of the real property retained by former eligible transferees (Daughter's 30 percent), which is equal to \$213,303. Finally, the portion of the factored base year value of Parent's retained 20 percent interest is \$31,836 (\$159,181 multiplied by 20 percent). Therefore, the New Taxable Value upon removal of the exclusion of the principal residence is \$695,139 (\$213,303 plus \$450,000 plus \$31,836).

(f) Filing.

(1) To request the intergenerational transfer exclusion, an eligible transferor and eligible transferee shall file a claim form, designed by the State Board of Equalization, with the county assessor in the county in which the principal residence is located.


(Reason for proposed language in (C) below. The reason for adding the claim for the homeowner's exemption below is to clarify that the names of any one or all of the transferees may be included on the homeowner's exemption claim form as occupants.)

(A) The claim form shall include a written certification signed and made under penalty of perjury, of the following:

- (i) that the transferee is a parent, child, grandparent, or grandchild of the transferor and that the transferor is their parent, child, grandparent, or grandchild.
- (ii) in the case of a grandparent-grandchild transfer, that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the transfer.
- (iii) that the transferor will not file a claim to transfer the base year value of the property under section 2.1, subdivision (b) of article XIII A of the California Constitution.
- (iv) that the real property is the transferor's principal residence or family farm; and
- (v) that the real property is or will become within one year the transferee's principal residence or family farm, the property will continue to be the principal residence or the family farm of an eligible transferee, and the eligible transferee will notify the assessor if the real property is no longer the principal residence or the family farm of an eligible transferee.

(B) The claim form may be filed and the certification made by the transferor's or eligible transferee's legal representative, the trustee of the transferor's or eligible transferee's trust, or the executor or administrator of the transferor's or eligible transferee's estate.

(C) If there are multiple transferees, the claim form, as well as the homeowner's exemption claim, may be filed and the certification made by any one of the eligible transferees.


ANTONIO VAZQUEZ, Chairman
Board of Equalization, 3rd District