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No. 2021/012

March 19, 2021

TO COUNTY ASSESSORS, INTERESTED PARTIES, AND
CLERKS OF THE COUNTY BOARDS:

PROPOSED PROPERTY TAX RULE 462.540

The State Board of Equalization (BOE) staff has initiated a project to add new Property Tax Rule (Rule) 462.540, *Change in Ownership – Base Year Value Transfers*, relative to the new base year value transfer provisions under section 2.1 of article XIII A of the California Constitution. Enclosed is a draft of the new proposed rule.

On November 3, 2020, the voters of California approved Proposition 19, which added section 2.1 to article XIII A of the California Constitution. Section 2.1(b) creates a new base year value transfer for any homeowner who is at least 55 years of age, or severely disabled, or a victim of a wildfire or natural disaster. These new base year value transfers become operative on April 1, 2021. Pursuant to the changes enacted by section 2.1(b), the BOE proposes to add new Rule 462.540 to clarify the application of these new base year value transfers.

Interested parties are encouraged to participate in the rulemaking process for the above rule. Suggested revisions to the draft, in the form of alternative text, should be provided to Glenna Schultz at glenna.schultz@boe.ca.gov or mailed to the above address by **Friday, April 16, 2021**.

Upon reviewing the submitted suggestions, it is anticipated that this project will proceed as follows:

- If necessary, staff will meet with interested parties to discuss the language for the rule.
- The Board Members will hear presentations on issues regarding the language for the rule and vote to place the rule into the formal rulemaking process.

All documents regarding this project will be posted on the BOE's website at <https://www.boe.ca.gov/proptaxes/rule462540-cio-byv-transfers.htm>. If you have questions regarding this project, you may contact Ms. Schultz at 1-916-274-3362.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:gs
Enclosure

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 1, 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, 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 1, 2020 and sells their original primary residence on May 1, 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, 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 equal to or less 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.

(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 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 1, 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 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 as of January 1, 2025 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. Claimant must file a claim for refund to receive a refund.

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 upon the filing of a claim for refund.

(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 1, 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 1, 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.