

Change in Ownership

Correctly implement the penalty process in accordance with section 482(a).

[Section 482\(a\)](#) provides that if a person or legal entity required to file a statement described in section 480 fails to do so within 90 days from the date of a written request by the assessor, a specific penalty is applied. When the property owner fails to return a [BOE-502-AH, Change in Ownership Statement \(COS\)](#), or return the COS timely, the assessor should notify the property owner of the penalty being applied and inform them of the abatement process as described in [section 483\(a\)](#).

The information contained in a properly completed COS is important because it assists the assessor in making an accurate assessment of a property. The assessor's current practice of not applying penalties to property owners who fail to file a COS by the filing deadline is contrary to statute and results in unequal treatment of taxpayers. The assessor should put a tracking system in place to monitor the date a COS is sent and the date the COS is returned in order to determine whether the COS is filed timely.

Properly notify property owners of any penalty added in compliance with section 482(f).

[Section 482\(f\)](#) provides that notice of any penalty added to either the secured or unsecured roll shall be mailed by the assessor to the transferee. If the property owner fails to return a [BOE-502-AH, Change in Ownership Statement \(COS\)](#), by the filing deadline, the assessor should determine the new value, apply the penalty, and send notification to the property owner of the penalty being applied and include information about the penalty abatement process.

By not providing property owners with proper notification of an added penalty or information about their right to file a written request to have the penalty abated, the property owner may be unaware of the penalty and/or the penalty abatement process, and may be forced to pay a penalty that could have been abated if they had been properly informed.

Revise the assessor's procedures and notice of penalty letter to reflect the correct penalty abatement process in accordance with section 483(a).

[Section 483\(a\)](#) states that if the assessee establishes to the satisfaction of the county board of supervisors that the failure to file a [BOE-502-AH, Change in Ownership Statement \(COS\)](#), within the timeframe required by [section 482\(a\)](#) was due to reasonable cause, and the assessee has filed the statement with the assessor, the board of supervisors may order the penalty abated provided a written application for abatement of the penalty has been filed with the board of supervisors no later than 60 days after the date on which the assessee was notified of the penalty.

Under the provisions of [section 483\(a\)](#), the assessor does not have the authority to allow a penalty to be abated. Without a resolution in place adopting the provisions of [section 483\(b\)](#) and giving the assessor the authority, only the board of supervisors may grant the penalty abatement. Therefore, the assessor should revise their practice and procedures, as well as revise their notice of penalty letter, to reflect the

correct penalty abatement process as provided by [section 483\(a\)](#) in order to avoid conflicting or incorrect information being given, which may lead to unequal treatment of taxpayers and improper application of statute.

Correctly implement the penalty abatement process in compliance with section 483(b).

[Section 483\(b\)](#) states that the penalty provided for in [section 482\(a\)](#) shall be abated if the assessee files a [BOE-502-AH, Change in Ownership Statement \(COS\)](#), with the assessor no later than 60 days after the date on which the assessee was notified of the penalty. The assessee is not required to include a written application for abatement of the penalty or to state that the failure to file was due to reasonable cause in order to have the penalty abated. Under the provisions of [section 483\(b\)](#), the assessor may not decide on a case by case basis to abate penalties. The assessor must automatically abate the penalties as long as the property owner returns the completed COS to the assessor within 60 days from the date of the notice of penalty.

The assessor's current practice of requiring the property owner to complete a penalty abatement request in order to have penalties abated when the property owner fails to file a COS timely is not in accordance with [section 483\(b\)](#) and may cause the property owner to pay penalties they are not required to pay.

Include all required information on the two-year transfer list pursuant to section 408.1(c).

Although the assessor's two-year transfer list contains the transferee, APN, address of the property, date of transfer, date of recording, recording reference number, and the consideration paid for the property, it does not include the transferor.

[Section 408.1\(c\)](#) sets forth the specific items of information that must be included on the two-year transfer list. Without including all required items on the transfer list, the public does not have access to all information that must be made available.

Ensure that the assessor's two-year transfer list does not include any confidential information.

While [section 408.1\(c\)\(6\)](#) provides that, where it is known by the assessor, the transfer list shall include the consideration paid for the property, [section 408.1\(f\)](#) states that pursuant to [section 481](#), the assessor shall not include information on the transfer list which was furnished by a transferee on a [BOE-502-A, Preliminary Change of Ownership Report \(PCOR\)](#), or a [BOE-502-AH, Change in Ownership Statement \(COS\)](#), and is not otherwise public information. [Section 481](#) requires the assessor to hold secret all information furnished on either the PCOR or COS, as these statements are not public documents and are not open to inspection.

By allowing the public to have access to information obtained directly from the PCOR or COS, the assessor is not following statutory provisions and is providing information to the public that they are not entitled to receive.

Timely reassess all properties owned by a legal entity having undergone a change in control when notified of the change in control through the BOE's Legal Entity Ownership Program (LEOP).

[Section 64\(c\)\(1\)](#) provides that when a legal entity acquires controlling interest of another legal entity by obtaining more than 50 percent of the voting stock or a majority ownership interest in that legal entity, there is a change in ownership of the real property owned by the legal entity being acquired.

By not reassessing properties owned by legal entities identified as having undergone a change in control, the assessor may be enrolling incorrect assessments for those properties.

Properly implement the penalty process in accordance with section 482(b) when notified of the penalty through the BOE's Legal Entity Ownership Program (LEOP).

[Sections 480.1](#) and [480.2](#) require the filing of a signed [BOE-100-B, Statement of Change in Control and Ownership of Legal Entities](#), whenever a legal entity has undergone a change in control or ownership. [Section 482\(b\)](#) states that if a legal entity required to file a [BOE-100-B](#) fails to do so within 90 days from the earlier of (1) the date of the change in control or the change in ownership of the legal entity, or (2) the date of a written request by the BOE, whichever occurs earlier, a specific penalty shall be applied.

The BOE provides the assessor with several reports, as well as copies of [BOE-100-Bs](#), indicating whether a penalty applies. The assessor should review these reports and the [BOE-100-Bs](#) to identify entities with late-filings or failures to file and apply penalties accordingly. By failing to apply the required [section 482\(b\)](#) penalty, the assessor is not following statutory requirements and is not treating all taxpayers equitably.

Track transfers of property, other than the principal residence, to enforce the \$1 million limit as provided by section 63.1.

[Section 63.1\(a\)\(2\)](#) provides that the definition of a change in ownership does not include the transfer of the first \$1 million of real property other than the principal residence. In order to enforce this provision, the BOE established a database to track these types of transfers statewide. While not mandatory, the assessor is encouraged to notify the BOE, on a quarterly basis, of any [section 63.1](#) transfer applications. The assessor may choose not to notify the BOE of these [section 63.1](#) applications; however, in order to enforce the \$1 million limit, the assessor must have some other means in place for tracking these types of transfers within his county to ensure correct treatment of the exclusion.

Failing to track the \$1 million limit may result in properties escaping proper assessment.

Reappraise all properties exceeding the \$1 million exclusion as provided in section 63.1.

[Section 63.1\(a\)\(2\)](#) excludes from reassessment the purchase or transfer of the first \$1 million of full cash value of all real property, other than a principal residence, of an eligible transferor in the case of a purchase or transfer between parents and their children. Based on optional quarterly reports submitted by assessors to the BOE listing approved [section 63.1](#) transfer exclusions, the BOE tracks transferors and the properties transferred for each county in an effort to enforce the \$1 million limit. The BOE sends out a *Report of Transferors Exceeding \$1,000,000*, which lists the transferor and the properties that have

been excluded. Assessors should review this list and report any necessary corrections to the BOE, such as duplicate submissions or errors in the value submitted. For those properties exceeding the limit, the assessor should determine if a reassessment is valid and coordinate with the taxpayer and any other counties involved to make sure the exclusion is not granted on properties once the \$1 million limit has been exceeded.

By allowing the exclusion of properties once the \$1 million limit has exceeded, the assessor is allowing certain properties to be excluded from reassessment that would otherwise be reassessable.

Properly implement the provisions of section 63.1(j) when a certified claim for exclusion is subject to a processing fee.

[Section 63.1\(j\)\(1\)](#) states that if the assessor notifies the transferee in writing of a potential eligibility for exclusion from change in ownership, a certified claim for exclusion shall be filed within 45 days of the date of the notice. If the transferee fails to file within 45 days, the assessor may send a second notice allowing the transferee 60 days from the date of the second notice to file the certified claim for exclusion. The second notice shall indicate whether a certified claim for exclusion that is not filed within 60 days will be subject to a processing fee as provided for in [section 63.1\(j\)\(2\)](#).

[Section 63.1\(j\)\(2\)](#) states that if a certified claim for exclusion is not filed within 60 days of the date of the second notice, and the transferee subsequently files a claim after the 60 days and qualifies for the exclusion, the assessor may, upon authorization by the county board of supervisors, require the transferee to pay a one-time processing fee. The assessor shall collect the fee at the time the claim is submitted and shall reimburse the fee to the transferee if the claim is determined to be ineligible. The fee shall not exceed the amount of the actual and reasonable costs incurred by the assessor for reassessment work done due to the transferee's failure to file the claim for exclusion or \$175, whichever is less.

When the county has an ordinance allowing the assessor to charge a processing fee for [section 63.1](#) claims for exclusion pursuant to [section 63.1\(j\)\(2\)](#), the assessor is required to send the first notice allowing 45 days for the exclusion to be filed before a second notice is sent clearly stating that the taxpayer will be charged a certain processing fee if the claim is received after 60 days from the date of the second notice. By not allowing the taxpayer the correct number of days to file the claim and by not notifying the taxpayer of the processing fee, the assessor is not in compliance with statute and the taxpayer is not being properly notified of all potential fees associated with filing the claim late.

Provide documentation to support enrolling the purchase price as current market value.

[Rule 2\(a\)](#) provides that full cash value or fair market value means the price at which a property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent under prevailing market conditions. [Rule 2\(b\)](#) provides that when valuing real property as the result of a change in ownership for consideration, it shall be rebuttably presumed that the consideration paid shall be the full cash value of the property, unless a preponderance of the evidence shows that the full cash value of the property is significantly higher or

lower than the consideration paid. A significant deviation means a deviation of more than 5 percent of the total consideration.

The assessor should confirm that the reported purchase price represents current market value before enrolling it as such. Providing documentation in the property record, such as comparable sales or other sales data, to confirm that the purchase price reflects market value would be a good business practice. Without reviewing comparable sales or other sales data in the market, the assessor would be unable to make that determination with certainty that the reported purchase price represents current market value. In addition, documentation supporting the value conclusion is a necessary element of any appraisal. It is standard appraisal practice to document in the property record the data used to determine market value conclusions. Proper documentation not only facilitates appraisal review, but also provides the means with which to defend values. By not adequately documenting the appraisal records, the assessor's value conclusions, even if correct, may not be fully understood by taxpayers or other appraisers.

Reassess all properties having undergone a change in ownership due to a foreclosure.

According to [Assessors' Handbook Section 401, *Change in Ownership \(AH 401\)*](#), a foreclosure is a procedure by which the beneficiary of a deed of trust or other promissory note elects to sell the property if the buyer defaults on the terms of the note. Common foreclosure actions include the following:

- A deed of trust may be foreclosed by the trustee's sale of the property. If a property is sold at a trustee's sale, a change in ownership occurs on the date the right of possession vests in a new purchaser.
- A mortgage or deed of trust may be foreclosed by judicial action. Judicial foreclosures involve a redemption period. A change in ownership occurs after the period of redemption has passed and the property has not been redeemed, or upon redemption when title vests in the original debtor's successor in interest.
- The trustor (property owner who is obligated on the loan) under a deed of trust may transfer title to the property to the lender in lieu of the lender undertaking the foreclosure action. If a property owner transfers title to the lender in lieu of a foreclosure action, the transfer is a change in ownership, and the date of the transfer is the date of the change in ownership.

By not reassessing properties identified as having undergone a change in ownership due to a foreclosure, the assessor is not following applicable statutes, and is not accurately tracking base year values or issuing applicable supplemental assessments. The assessor's policy may result in overassessments or underassessments of these properties.

Provide sufficient documentation in the property records to support market value conclusions for changes in ownership.

Documentation supporting the value conclusion is a necessary element of any appraisal. It is standard appraisal practice to document in the property record the data used to determine market value

conclusions. Proper documentation not only facilitates appraisal review, but also provides the means with which to defend values. By not adequately documenting appraisal records, the assessor's value conclusions, even if correct, may not be fully understood by taxpayers or other appraisers.

Value properties subject to improvement bonds in accordance with section 110(b).

[Section 110\(b\)](#) provides that there is a rebuttable presumption that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration, exclusive of that lien amount, involved in the transaction. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of those improvements is not reflected in that consideration.

The assessor's practice of adding the bond amount to the purchase price paid for these properties without evidence to prove that the bond amount is not already included in the purchase price is contrary to statute and could result in overassessments.

Apply the appropriate inflation factor as required by section 51.

[Section 51\(a\)\(1\)](#) provides that the taxable value of real property shall be its base year value, compounded annually since the base year by an inflation factor. When applying the inflation factor to the base year value, according to [section 51\(a\)\(1\)\(D\)](#), in no event shall the percentage increase for any assessment year exceed 2 percent of the prior year's value.

By rounding the base year value up after applying the inflation factor, the assessor is enrolling overstated assessments and is not following statutory guidelines.