

STATE BOARD OF EQUALIZATION



Smith & Sheehy Item # L1

Item Name: Parent-Child & Grandparent-Grandchild Ex.

Mtg. Date: 5/29/19 Min. Exh. #: 5.12 Part 3 of 4

PUBLIC COMMENT



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

2 messages

Tiffany Jones <tiffanyjones2702@gmail.com>

Tue, Jan 22, 2019 at 3:03 PM

To: john.tuteur@countyofnapa.org

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,

Tiffany Jones

Tuteur, John <John.Tuteur@countyofnapa.org>

Tue, Jan 22, 2019 at 3:32 PM

J: Tiffany Jones <tiffanyjones2702@gmail.com>

Ms. Jones, you are correct that the trust would need to borrow from a third party the funds to buyout your siblings. The trust would distribute the proceeds of the loan to your siblings and then transfer the property to you subject to the loan. You could then use your savings or borrow funds to pay off the trust loan.

Please let me know what property is involved and the name of the successor trustee for your mother.

John Tuteur
Assessor-Recorder-County Clerk
john.tuteur@countyofnapa.org

-----Original Message-----

From: Tiffany Jones <tiffanyjones2702@gmail.com>

Sent: Tuesday, January 22, 2019 3:03 PM

To: Tuteur, John <John.Tuteur@countyofnapa.org>

Subject: Parent-Child Transfer and Trusts

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

3 messages

Tiffany Jones <tiffanyjones2702@gmail.com>

Tue, Jan 22, 2019 at 3:04 PM

To: assessor@co.nevada.ca.us

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,

Tiffany Jones

Sandra Copher <Sandra.Copher@co.nevada.ca.us>

Wed, Jan 23, 2019 at 8:11 AM

To: Tiffany Jones <tiffanyjones2702@gmail.com>

Cc: assessor <assessor@co.nevada.ca.us>

Hello Ms. Jones,

Thank you for contacting the Nevada County Assessor's Office.

Your question has been forwarded to an Assessment Assistant for review. The Assessment Assistant will respond to you directly.

Regards,

Sandra Copher

Sandra Copher

Assessment Assistant II

(530) 265-1232

assessor@co.nevada.ca.us



From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]
Sent: Tuesday, January 22, 2019 3:05 PM
To: assessor
Subject: Parent-Child Transfer and Trusts

[Quoted text hidden]

Jenifer Triplett <Jenifer.Triplett@co.nevada.ca.us>
To: Tiffany Jones <tiffanyjones2702@gmail.com>, assessor <assessor@co.nevada.ca.us>

Wed, Jan 23, 2019 at 12:48 PM

Dear Ms. Jones,

Thank you for contacting the Nevada County Assessor's Office. We are sorry to hear of your loss.

If you have not yet secured the help of an attorney, title company, paralegal or document preparer to prepare an Affidavit of Death to record at the Nevada County Recorder's Office, we encourage you to do so.

In addition to recording the Affidavit of Death with the Recorder's Office, California Revenue & Taxation Code Section 480(b) states that a Change in Ownership Statement shall be filed by the trustee with the county in which the decedent owned real property within 150 days after the date of death. I have attached a Change in Ownership Statement and a Claim for Reassessment Exclusion for Transfer Between Parent and Child with this email for your convenience. Please complete both forms and return them to our office along with a copy of mom's trust, which is a requirement for the parent-child exclusion.

A copy of the trust is required to verify the successor trustee, the beneficiaries and to see how the trust allows for allocation of assets. As you mentioned, if there is not sufficient cash assets in the trust to distribute equally to all beneficiaries and depending on what the trust says regarding distribution, the trust may secure a third-party loan to pay the beneficiaries who do not want the property. If you are the one who pays them for their portion, that is considered a sibling transfer and is not eligible for exclusion from reassessment. From your brief explanation, if you pay them directly the property might incur a 66.6% reassessment at current, fair market value. If the trustee of the

trust secures a third-party loan to pay siblings, the beneficiary who receives the property may refinance the trustee's loan after distribution.

If you would like to discuss this further, please feel free to give me a call at (530)265-1569.

Kindest Regards,

Jenifer Triplett

Assessment Assistant II

Nevada County Assessor's Office

950 Maidu Ave.

Nevada City, CA 95959

(530) 265-1569 fax: (530) 265-9858



From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]

Sent: Tuesday, January 22, 2019 3:05 PM

To: assessor <assessor@co.nevada.ca.us>

Subject: Parent-Child Transfer and Trusts

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

[Quoted text hidden]

2 attachments



Parent-Child Exclusion.pdf

627K



Death of property owner.pdf

831K

NEVADA 2

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

- The trust is share-share alike. We all get an equal distribution
- The trustee has the right to encumber the property held in trust.
- The real property is the only asset of the trust.

I found a 3rd party lender willing to lend enough money to the trust to pay my brother and sister their share. I will get an equal share in equity (Property Value minus the Trust Loan).

My question is what of the following documentation is required:

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments
3. Affidavit of Death (May be filed before submission)
4. Heir Distribution Spreadsheet
5. Copy of the recorded deed for the 3rd party loan
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust
8. Bank Statement from the trust showing the cash distributions to my brother and sister
9. Recorded Grant Deed showing transfer of property from trust to me.

I assume you will want to prove that a 3rd party loan was taken by the trust, but I did not know how to prove it.

Thank you,

Tiffany Jones

[Quoted text hidden]

Jenifer Triplett <Jenifer.Triplett@co.nevada.ca.us>
: Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 2:02 PM

Tiffany,

It sounds like you have a very good attorney you are working with!

The list you provided is exactly all that our office would need. That will be enough for proof of the 3rd party loan and the fact that the trust gave your siblings their "equal" share. Thank you so much for being willing to check. You are right on in how you are approaching this transfer.

Kindest Regards,

Jenifer Triplett

Assessment Assistant II

Nevada County Assessor's Office

950 Maidu Ave.



Tiffany Jones <tiffanyjones2702@gmail.com>

RE: Parent to Child Transfer - Property in a Trust

3 messages

Maria Melchor <TaxpayerAdvocate@asr.ocgov.com>

Wed, Jan 23, 2019 at 5:25 PM

Reply-To: TaxpayerAdvocate@asr.ocgov.com

To: tiffanyjones2702@gmail.com

Hi Tiffany,

If you buy out your siblings with your own money, you will be reassessed for their portion with the amount at Market value.

If you finance to pay them, the funds are considered part of the inheritance. If your mother had bank accounts you can use part of your inheritance to pay them.

Then you need to find the part in the trust that is called **Powers to the trustee to distribute in-cash or in-kind**.

Your questions are:

1. What documentation is required to get approved for the exclusion for reassessment? *You need to file an affidavit of death, accompany with a Preliminary Change of Ownership Report (PCOR) and record all of it together. Then you need to submit a Claim for exclusion for Reassessment between Parent and Child with us, the Assessor's office.*

2. Does the trust really need to get a 3rd party loan to make this happen? *Yes, unless there other inheritance funds. Like bank accounts, cars, stock, etc. they can keep other funds and you can keep the house with the provision "in-cash or in-money or in-kind".*

I hope this helps. Call me if you have any other questions.

Have a great day,



Maria Melchor

Taxpayer Assistant Specialist

Orange County Assessor Department

(714) 568-5737

(714) 547-8460 Fax

Disclosure: All information in this email is intended to provide guidance.

The assessor's office will not be liable for the outcome on how you decide to act upon it.

From: tiffanyjones2702@gmail.com [mailto:tiffanyjones2702@gmail.com]
Sent: Tuesday, January 22, 2019 1:45 PM
To: taxpayeradvocate@asr.ocgov.com
Subject: Parent to Child Transfer - Property in a Trust

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Tiffany Jones <tiffanyjones2702@gmail.com>
To: TaxpayerAdvocate@asr.ocgov.com

Wed, Jan 30, 2019 at 1:29 PM

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

The trust is share-share alike. We all get an equal distribution
The trustee has the right to encumber the property held in trust.
The real property is the only asset of the trust.

I found a 3rd party lender willing to lend enough money to the trust to pay my brother and sister their share. I will get an equal share in equity (Property Value minus the Trust Loan).

My question is what of the following documentation is required:

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments
3. Affidavit of Death (May be filed before submission)
4. Heir Distribution Spreadsheet
5. Copy of the recorded deed for the 3rd party loan
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust
8. Bank Statement from the trust showing the cash distributions to my brother and sister
9. Recorded Grant Deed showing transfer of property from trust to me.

I assume you will want to prove that a 3rd party loan was taken by the trust, but I did not know how to prove it.

Thank you,

Tiffany Jones
[Quoted text hidden]

Maria Melchor <TaxpayerAdvocate@asr.ocgov.com>
Reply-To: TaxpayerAdvocate@asr.ocgov.com
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Fri, Feb 1, 2019 at 4:58 PM

Hi Tiffany,

All counties are regulated by the State Board of Equalization and we all have to follow the same rules. I am not sure what your attorney is refereeing to – All counties in California follow the same rules and we all operate using the same paperwork that is provided by the State Board.

I need your parcel number or the address of the property in question so I can help you better. I will be glad to answer your questions if you give me a call.

Some of the documents that you listed below are not necessary.

I already let you know on the prior email that you need an Affidavit of Death with a Preliminary Change of Ownership Report (PCOR) when recording at the Clerk Recorder's office. If you call me, I will let you know how to complete the PCOR. The Exclusion for Reassessment between Parent and Child (Prop 58) needs to be filed with the Assessor's office for the date of death. After you file the Affidavit of Death, you may file a distribution deed from the trust to your name with the Recorder's office. Remember, every recoded document needs a PCOR, otherwise the Recorder's office will charge you a penalty.

We do not need any of your deeds because we get them from the Recorder's office. We do not need anything else unless requested by the appraisers.

Any more questions, please call me. The number below is my direct number.

Have a great day,



Maria Melchor

Taxpayer Assistant Specialist

Orange County Assessor Department

(714) 568-5737

(714) 547-8460 Fax

Disclosure: All information in this email is intended to provide guidance.

The assessor's office will not be liable for the outcome on how you decide to act upon it.

[Quoted text hidden]



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

4 messages

Tiffany Jones <tiffanyjones2702@gmail.com>
To: assessor@placer.ca.gov

Wed, Jan 23, 2019 at 6:52 AM

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,
Tiffany Jones

Placer County Assessor <Assessor@placer.ca.gov>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Thu, Jan 24, 2019 at 8:48 AM

Dear Ms. Jones:

This email is in response to your email received January 23, 2019, regarding questions pertaining to the Parent to Child Exclusion (P58). What documentation is required to get approved for the exclusion for reassessment? 2. Does the trust really need to get a 3rd party loan to make this happen?

Real property is subject to reassessment whenever a change in ownership occurs. If property is held in trust, and the trustor dies, the property is subject to reassessment as of the date of the death. Leaving the property in the trust does not prevent the reassessment. If the interest transfers to children, the change in ownership may be excluded from reassessment under Section 63.1 of the Revenue and Taxation Code, Parent to child Exclusion Proposition 58. However, in order to benefit from the P58 exclusion the original P58 with the wet signature must be filed with our office.

Pertaining to questions one; for your convenience, a Parent to Child Exclusion Claim is attached to this email. Please send the original Parent to Child Exclusion Claim, with wet signature, along with a complete copy of the trust, including any amendments (Certification of Trust is not sufficient) by mail, to: Placer County Assessor's Office, 2980 Richardson Drive, Auburn CA 95603-2640.

Pertaining to questions two; in order to qualify for the exclusion when the property is the only asset in the trust and only going to one child of three. Annotation 625.0235.005; Trustee of Mom's trust gets loan against the property – does not have to be commercial lender) – lender can NOT be the property beneficiary. Please see the State Board of Equalizations website for more detailed information at: www.boe.ca.gov.

Also attached to this email is the Share and Share Alike Allocation Statement. When there is only one parcel distributed to one child; the allocation statement provides us information regarding assets in the trust, so we can determine if it

qualifies for the full exclusion upon distribution.

If you have any questions pertaining to this response, you may contact our office by calling (530)889-4300 or email assessor@placer.ca.gov.

Sincerely,

Sonia Gribble


Appraisal Technician


Attachments

Ref: #2019-000902

[Quoted text hidden]

2 attachments

 **BOE-58-AH.PDF**
744K

 **Share and Share Alike Allocation Statement - Table version.docx**
18K

Tiffany Jones <tiffanyjones2702@gmail.com>
To: Placer County Assessor <Assessor@placer.ca.gov>

Wed, Jan 30, 2019 at 1:30 PM

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

The trust is share-share alike. We all get an equal distribution
The trustee has the right to encumber the property held in trust.
The real property is the only asset of the trust.

I found a 3rd party lender willing to lend enough money to the trust to pay my brother and sister their share. I will get an equal share in equity (Property Value minus the Trust Loan).

My question is what of the following documentation is required:

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments
3. Affidavit of Death (May be filed before submission)
4. Heir Distribution Spreadsheet
5. Copy of the recorded deed for the 3rd party loan
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust
8. Bank Statement from the trust showing the cash distributions to my brother and sister
9. Recorded Grant Deed showing transfer of property from trust to me.

I assume you will want to prove that a 3rd party loan was taken by the trust, but I did not know how to prove it.

Thank you,

Tiffany Jones

[Quoted text hidden]

Tiffany Jones <tiffanyjones2702@gmail.com>
: Placer County Assessor <assessor@placer.ca.gov>

Wed, Feb 6, 2019 at 8:34 AM

Sonia,

Did you get this email I sent on January 30th? I'm just trying to figure out what documents you need to prove the 3rd party loan was obtained.

Thanks,

Tiffany Jones

[Quoted text hidden]

Tiffany Jones

[Quoted text hidden]

Tiffany Jones <tiffanyjones2702@gmail.com>
To: Placer County Assessor <assessor@placer.ca.gov>

Wed, Feb 6, 2019 at 8:34 AM

Sonia,

Did you get this email I sent on January 30th? I'm just trying to figure out what documents you need to prove the 3rd party loan was obtained.

Thanks,

Tiffany Jones

[Quoted text hidden]

Placer County Assessor <Assessor@placer.ca.gov>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Tue, Feb 19, 2019 at 9:48 AM

Dear Ms. Jones:

This email is in response to your email received February 6, 2019, regarding the Parent to Child Exclusion and the 3rd party loan to confirm equal distribution to each child.

If you could provide all the documentation listed below that would be sufficient for processing the Parent to Child Exclusion and confirming the 3rd party loan.

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments;
3. Death of Property Owner
4. Heir Distribution Spreadsheet
5. Copy of the recorded deed for the 3rd party loan
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in trust
8. Bank Statement from the trust showing the cash distributions to your siblings

The Affidavit of Death and Grant Deed documents should be sent to the Placer County Clerk-Recorder's Office located at 2954 Richardson Drive, Auburn, CA 95603.

For your convenience, attached to this email is the Death of Property Owner and Parent to child Exclusion.

If you have any questions pertaining to this response, you may contact our office at (530)889-4300 or email assessor@placer.ca.gov.

Sincerely,

Sonia Gribble

Appraisal Technician

Ref: #2019-000943

From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]

Sent: Wednesday, January 30, 2019 1:31 PM

To: Placer County Assessor <Assessor@placer.ca.gov>

Subject: Re: Parent-Child Transfer and Trusts

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

[Quoted text hidden]

[Quoted text hidden]



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

5 messages

Tiffany Jones <tiffanyjones2702@gmail.com>
To: cleonhardt@countyofplumas.com

Wed, Jan 23, 2019 at 6:54 AM

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,
Tiffany Jones

Leonhardt, Chuck <CLEonhardt@countyofplumas.com>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 23, 2019 at 10:57 AM

Tiffany,

I recommend that that you consult with an attorney.

Please keep in mind that the Parent-Child exclusion does not apply to transfers between siblings.

To apply, the transfer would need to be from your mother or her trust directly to you.

I hope that helps,

Chuck

From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]
Sent: Wednesday, January 23, 2019 6:54 AM
To: Leonhardt, Chuck
Subject: Parent-Child Transfer and Trusts

[Quoted text hidden]

Tiffany Jones <tiffanyjones2702@gmail.com>
To: "Leonhardt, Chuck" <CLeonhardt@countyofplumas.com>

Wed, Jan 30, 2019 at 1:20 PM

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

The trust is share-share alike. We all get an equal distribution
The trustee has the right to encumber the property held in trust.
The real property is the only asset of the trust.

I found a 3rd party lender willing to lend enough money to the trust to pay my brother and sister their share. I will get an equal share in equity (Property Value minus the Trust Loan).

My question is what of the following documentation is required:

1. Form BOE- 58-AH
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7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust
8. Bank Statement from the trust showing the cash distributions to my brother and sister
9. Recorded Grant Deed showing transfer of property from trust to me.

I assume you will want to prove that a 3rd party loan was taken by the trust, but I did not know how to prove it.

Thank you,

Tiffany Jones
[Quoted text hidden]

Leonhardt, Chuck <CLeonhardt@countyofplumas.com>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 1:58 PM

Tiffany,

Actually, if the distribution is from your mother's trust to you, file the Change of Ownership Statement when you record the deed indicating that this is a Parent to Child Transfer. We will request the BOE-58-AH when we process the change of ownership.

As for the share - share alike provision, I view that as your mothers instruction/authorization to the Trustee to act. I am not concerned about how you balanced the interests of the other siblings. The Exemption requires that the property pass from your mother (or her Trust) to you. The share-share alike provision empowers the Trustee to determine how that is accomplished in fairness all beneficiaries prior to the distribution. If we have questions about the trust, we request copies when needed.

I hope that helps.

Chuck

From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]

Sent: Wednesday, January 30, 2019 1:20 PM

To: Leonhardt, Chuck

Subject: Re: Parent-Child Transfer and Trusts

[Quoted text hidden]

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 2:59 PM

To: "Leonhardt, Chuck" <CLeonhardt@countyofplumas.com>

Chuck,

Thank you for your quick response (again!!). I am a little confused. I have attached something I came across in the assessor's handbook. My understanding is that unless the distribution is equal between my brother, my sister and myself; 2/3 of the property will be reassessed. Everything I have read says the trust must obtain a 3rd party loan to equalize the distribution in order for me to be granted exclusion for reassessment.

Is this just in theory and not in real life?

Thanks,

Tiffany Jones

[Quoted text hidden]



Assessor's handbook - Equalizing Trust Distributions.pdf

431K

From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]
Sent: Wednesday, January 30, 2019 1:20 PM
To: Leonhardt, Chuck
Subject: Re: Parent-Child Transfer and Trusts

[Quoted text hidden]


Tiffany Jones <tiffanyjones2702@gmail.com>
To: "Leonhardt, Chuck" <CLeonhardt@countyofplumas.com>

Wed, Jan 30, 2019 at 2:59 PM

Chuck,
Thank you for your quick response (again!!). I am a little confused. I have attached something I came across in the assessor's handbook. My understanding is that unless the distribution is equal between my brother, my sister and myself; 2/3 of the property will be reassessed. Everything I have read says the trust must obtain a 3rd party loan to equalize the distribution in order for me to be granted exclusion for reassessment.

Is this just in theory and not in real life?

Thanks,
Tiffany Jones
[Quoted text hidden]

 **Assessor's handbook - Equalizing Trust Distributions.pdf**
431K

Leonhardt, Chuck <CLeonhardt@countyofplumas.com>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 4:47 PM

Tiffany,

As I see it, by virtue of the share and share alike provision of the trust, you will be making equal distributions. You will take the property and your siblings will take the loan proceeds. Typically what we see is that the Trustee is given the discretion to determine how to distribute the assets equally.

More often we see a trust that has multiple parcels of real estate. The trust makes equal (value) distributions to the beneficiaries, however each beneficiary takes their distribution as one of the three parcels of equal value property or properties of different values that are balanced by cash or other trust assets.

The point that handbook makes is that the equity must be converted to cash by the encumbrance while the property is still in the trust estate. The property cannot be distributed and then have the siblings buy each other out. The transfers between siblings would not qualify for the exemption. (In this case 2/3)

While the Trustee is acting on behalf of the trust, they are acting under the instructions provided by the Trustor who created the trust.

Prop 58 is clear that the transfer must be between Parent and Child. Or in this case the Parents trust, which may contain more than one asset including loan proceeds obtained by the Trustee to balance the distributions to the Beneficiaries.

Equalizing Trust Distributions

Equalization issues may arise when a single property is the primary trust asset and that asset is distributed to one beneficiary. If the trustee has the authority to make a non-pro rata distribution and thus allocate specific assets to an individual beneficiary and the value of the property does not exceed that beneficiary's share of the trust estate, the transfer is considered to be made from the trustor to the beneficiary and eligible for the parent-child exclusion. The value of the property is the market value on the date of the parent-child transfer (typically date of death), less any encumbrances on the property.

Furthermore, unless prohibited by the trust, a trustee who makes a non-pro rata distribution may encumber the property with a loan prior to distributing the property to one beneficiary. The trustee may then distribute the loan proceeds to the other beneficiaries to equalize the value of the distributions to all of the beneficiaries. However, the trustee must be the party encumbering the property and the trustee may not encumber the property with a loan from the beneficiary who will receive the property. The trustee may obtain a loan secured by the property from a third-party lender, such as a bank, or a beneficiary who will not receive the property as part of the trust distribution.

Example 12-6

X transfers her unencumbered principal residence to her trust, to be distributed on a share-and-share-alike basis to B and C upon X's death. The trustee is authorized to make non-pro rata distributions.

As of X's date of death, the real property is the only asset and has a fair market value of \$500,000. If the trustee decides to distribute the entire residence to B, the trustee may first borrow \$250,000 from a third party, secured by the residence, and may distribute the loan proceeds to C. The trustee may then distribute the residence, encumbered by the \$250,000 deed of trust, to B; B would have to repay the loan. The encumbrance would equalize the non-pro rata distribution.

If B and C are the children of X, the transfer of the principal residence to B qualifies for the parent-child exclusion if all other requirements are satisfied.

Example 12-7

D transfers his real property to his trust to be distributed on a share-and-share-alike basis to children B and C upon D's death. The trustee is authorized to make non-pro rata distributions. Upon D's death, the only asset is the real property with a fair market value of \$500,000. The trustee distributes property to B; B gets a \$250,000 loan and pays C from loan proceeds or pays C \$250,000 from personal funds.

The transfer of the real property to B qualifies for the parent-child exclusion as to B's 50 percent interest in the trust assets. The other 50 percent is a change in ownership as a sibling transfer.

PLUMAS3

I hope this helps. It appears that you have handled the situation correctly based upon what you have told me.

Chuck

From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]

Sent: Wednesday, January 30, 2019 2:59 PM

[Quoted text hidden]

[Quoted text hidden]

Tiffany Jones <tiffanyjones2702@gmail.com>
To: "Leonhardt, Chuck" <CLeonhardt@countyofplumas.com>

Thu, Jan 31, 2019 at 7:53 AM

Thank you, Chuck!! Which of the following does the County of Plumas want to see?

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments
3. Affidavit of Death (May be filed before submission)
4. Heir Distribution Spreadsheet
5. Copy of the recorded deed for the 3rd party loan
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust
8. Bank Statement from the trust showing the cash distributions to my brother and sister
9. Recorded Grant Deed showing transfer of property from trust to me.

Tiffany

[Quoted text hidden]

Leonhardt, Chuck <CLeonhardt@countyofplumas.com>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Thu, Jan 31, 2019 at 1:34 PM

Tiffany,

We definitely will need the recorded Grant Deed. (We will receive this from the County Recorder after it has been recorded.) We will definitely need the Form -BOE-58-AH, the Affidavit of Death and a copy of the trust with any amendments. We will also need the Preliminary Change of Ownership Statement to be filed at the time the deed is recorded.

The remaining items should be retained in your file, in case something in the trust prompts us to ask more questions.

Thank you,

Chuck



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

5 messages

Tiffany Jones <tiffanyjones2702@gmail.com>
To: accrmail@asrckrec.com

Wed, Jan 23, 2019 at 6:56 AM

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen? My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

Thank you,
Tiffany Jones

Assessor Mail <accrmail@asrckrec.com>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Tue, Jan 29, 2019 at 9:09 AM

Good Morning Ms. Jones,

I'm very sorry for your loss.

The Parent Child Exclusion does allow the transfer of the principal place of residence between parents and children (and the transfer of up to \$1 million of any other real property between parents and children) is excluded from reappraisal if an application is filed timely.

A Claim for Exclusion from Reappraisal form must be completed and filed with the Assessor's Office. The Parent to Child Transfer – Exclusion from Reassessment form can be found on our website at this link: <https://www.asrckrec.com/parent-to-child-exclusion>

However, the Exclusion does not apply for ownership transfers between siblings. Should the property pass to all three children equally and the exclusion is applied, when you buy out your siblings' shares, you would still be able to retain your 1/3 portion of the original base year value (your mother's assessed value) while 2/3s of the current market value would be applied to your acquisition of your siblings portions.

Much depends on how the property is dispersed. Assessor-Clerk-Recorder personnel are forbidden by California statute to practice law, which includes advising what forms are needed, how to complete forms or any other legal advice such as how to change the way title is held. It is highly recommended that you consult an attorney, title company, or professional document preparation service to assist you with these concerns.

Sincerely,

Mary

#757, Senior Appraiser, Public Service

Assessor-County Clerk-Recorder

**** The County Administrative Center Assessor-County Clerk-Recorder Public Service Office is open Monday through Friday, 8:00 a.m. to 5:00 p.m. Other Assessor-County Clerk-Recorder Public Service offices may have different service hours. Please visit our website at <https://www.asrclrec.com/> for more information****

From: Tiffany Jones <tiffanyjones2702@gmail.com>

Sent: Wednesday, January 23, 2019 6:56 AM

To: Assessor Mail <accrmail@asrclrec.com>

Subject: Parent-Child Transfer and Trusts

[Quoted text hidden]



BOE58AH Claim for Reassessment Exclusion for Transfer Between Parent and Child.pdf

849K

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 1:32 PM

To: Assessor Mail <accrmail@asrclrec.com>

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

The trust is share-share alike. We all get an equal distribution
The trustee has the right to encumber the property held in trust.
The real property is the only asset of the trust.

I found a 3rd party lender willing to lend enough money to the trust to pay my brother and sister their share. I will get an equal share in equity (Property Value minus the Trust Loan).

My question is what of the following documentation is required:

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments
3. Affidavit of Death (May be filed before submission)
4. Heir Distribution Spreadsheet
5. Copy of the recorded deed for the 3rd party loan
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust
8. Bank Statement from the trust showing the cash distributions to my brother and sister
9. Recorded Grant Deed showing transfer of property from trust to me.

I assume you will want to prove that a 3rd party loan was taken by the trust, but I did not know how to prove it.

Thank you,

Tiffany Jones

[Quoted text hidden]

Assessor Mail <accrmal@asrclrec.com>

Tue, Feb 5, 2019 at 7:23 AM

To: Tiffany Jones <tiffanyjones2702@gmail.com>

Hi Ms. Jones,

I've forwarded your questions to the Assessor's Title Division. They administrate the Parent Child Exclusions and should be able to assist you with more detail. Please allow up to three business days for their response.

Sincerely,

Mary

#757, Senior Appraiser, Public Service

Assessor-County Clerk-Recorder

**** The County Administrative Center Assessor-County Clerk-Recorder Public Service Office is open Monday through Friday, 8:00 a.m. to 5:00 p.m. Other Assessor-County Clerk-Recorder Public Service offices may have different service hours. Please visit our website at <https://www.asrclrec.com/> for more information****

From: Tiffany Jones <tiffanyjones2702@gmail.com>

Sent: Wednesday, January 30, 2019 1:32 PM

To: Assessor Mail <accrmal@asrclrec.com>

Subject: Re: Parent-Child Transfer and Trusts

[Quoted text hidden]

Title HelpDesk <TitleHelpDesk@asrclrec.com>

Wed, Feb 6, 2019 at 12:29 PM

To: Tiffany Jones <tiffanyjones2702@gmail.com>, Assessor Mail <accrmal@asrclrec.com>

Ms. Jones,

In addition to the below items, please provide the recording Instrument No. on the 3rd Party Deed of Trust (loan) executed by the trustee. This would allow for verification of said 3rd party loan.

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments
3. Affidavit of Death (May be filed before submission)
4. Heir Distribution Spreadsheet

5. Copy of the recorded deed for the 3rd party loan
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust
8. Bank Statement from the trust showing the cash distributions to my brother and sister
9. Recorded Grant Deed showing transfer of property from trust to me.

David 200

Senior Appraiser - Title Division

Riverside County Assessor

P.O.Box 751 Riverside, CA 92502-0751

Office: 951.955.0400

From: Tiffany Jones <tiffanyjones2702@gmail.com>

Sent: Wednesday, January 30, 2019 1:32 PM

To: Assessor Mail <accrmail@asrclrec.com>

Subject: Re: Parent-Child Transfer and Trusts

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

[Quoted text hidden]

[Quoted text hidden]



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

2 messages

Tiffany Jones <tiffanyjones2702@gmail.com>
To: assessor@saccounty.net

Wed, Jan 23, 2019 at 6:59 AM

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,
Tiffany Jones

Carder. Laura <Carderla@saccounty.net>

Wed, Jan 23, 2019 at 8:57 AM

To: "tiffanyjones2702@gmail.com" <tiffanyjones2702@gmail.com>

: ASR-Appraisal Support Senior <ASR-AppraisalSupportSenior@saccounty.net>, "Assessor. ASR"
assessor@saccounty.net

Hello Tiffany,

The documentation required to approve a parent to child exclusion would be a completed parent to child claim form (BOE-58-AH), along with a copy of the trust & any amendments, and will. The cash received by the other 2 siblings should be part of a trust asset or proceeds from a 3rd party loan in the trust's name in order to grant a 100% exclusion to you. An Account Distribution form would be submitted to show the in lieu value to your 2 siblings and the property going to you. You would need to attach any supporting documents with the Account Distribution form.

I have attached an Account Distribution form to complete.

If you have any further questions, please let me know.

Thank You

Laura Carder
Senior Office Specialist
Assessor's Office

Property Transfer Section

Phone: 876-6787

Fax: 875-0755

Email: Assessor@saccounty.net

From: Tiffany Jones <tiffanyjones2702@gmail.com>

Sent: Wednesday, January 23, 2019 6:59 AM

To: Assessor. ASR <assessor@saccounty.net>

Subject: Parent-Child Transfer and Trusts

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Account of Distribution Letter and Form.doc

54K



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

4 messages

Tiffany Jones <tiffanyjones2702@gmail.com>
To: assessor@saccounty.net

Wed, Jan 23, 2019 at 6:59 AM

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,
Tiffany Jones

Carder. Laura <Carderla@saccounty.net>

Wed, Jan 23, 2019 at 8:57 AM

To: "tiffanyjones2702@gmail.com" <tiffanyjones2702@gmail.com>

From: ASR-Appraisal Support Senior <ASR-AppraisalSupportSenior@saccounty.net>, "Assessor. ASR"
<assessor@saccounty.net>

Hello Tiffany,

The documentation required to approve a parent to child exclusion would be a completed parent to child claim form (BOE-58-AH), along with a copy of the trust & any amendments, and will. The cash received by the other 2 siblings should be part of a trust asset or proceeds from a 3rd party loan in the trust's name in order to grant a 100% exclusion to you. An Account Distribution form would be submitted to show the in lieu value to your 2 siblings and the property going to you. You would need to attach any supporting documents with the Account Distribution form.

I have attached an Account Distribution form to complete.

If you have any further questions, please let me know.

Thank You

Laura Carder
Senior Office Specialist
Assessor's Office

Property Transfer Section

Phone: 876-6787

Fax: 875-0755

Email: Assessor@saccounty.net

From: Tiffany Jones <tiffanyjones2702@gmail.com>

Sent: Wednesday, January 23, 2019 6:59 AM

To: Assessor. ASR <assessor@saccounty.net>

Subject: Parent-Child Transfer and Trusts

EXTERNAL EMAIL: If unknown sender, **do not** click links/attachments.

[Quoted text hidden]

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Account of Distribution Letter and Form.doc

54K

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 1:13 PM

To: "Carder. Laura" <Carderla@saccounty.net>

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

The trust is share-share alike. We all get an equal distribution
The trustee has the right to encumber the property held in trust.
The real property is the only asset of the trust.

I found a 3rd party lender willing to lend enough money to the trust to pay my brother and sister their share. I will get an equal share in equity (Property Value minus the Trust Loan).

My question is what of the following documentation is required:

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments
3. Affidavit of Death (May be filed before submission)
4. Heir Distribution Spreadsheet
5. Copy of the recorded deed for the 3rd party loan
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust
8. Bank Statement from the trust showing the cash distributions to my brother and sister
9. Recorded Grant Deed showing transfer of property from trust to me.

I assume you will want to prove that a 3rd party loan was taken by the trust, but I did not know how to prove it.

Thank you,

Tiffany Jones

[Quoted text hidden]

Carder. Laura <Carderla@saccounty.net>

Wed, Jan 30, 2019 at 1:54 PM

SACRAMENTO 2

To: Tiffany Jones <tiffanyjones2702@gmail.com>

Hello Tiffany,

Numbers 1, 2, 3, 4, 6, 7 & 9 would be required.

The Closing Statement for 3rd Party Loan and Bank Statement showing proceeds are in the trust would be proof that the loan was taken by the trust, along with the Account Distribution Form.

Please let me know how I may assist you.

Thank You

Laura Carder
Senior Office Specialist
Assessor's Office
Property Transfer Section
Phone: 876-6787
Fax: 875-0755
Email: Assessor@saccounty.net

From: Tiffany Jones <tiffanyjones2702@gmail.com>
Sent: Wednesday, January 30, 2019 1:13 PM
To: Carder, Laura <Carderla@saccounty.net>
Subject: Re: Parent-Child Transfer and Trusts

[Quoted text hidden]
[Quoted text hidden]



Tiffany Jones <tiffanyjones2702@gmail.com>

Proposition 58 and Trusts

2 messages

Tiffany Jones <tiffanyjones2702@gmail.com>
To: tslavich@cosb.us

Fri, Feb 1, 2019 at 1:25 PM

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,

Tiffany Jones

Tom Slavich <TSlavich@cosb.us>

Wed, Feb 6, 2019 at 4:33 PM

To: Tiffany Jones <tiffanyjones2702@gmail.com>

Cc: Javana Sammons <JSammons@cosb.us>, Judy Diaz <JDiaz@cosb.us>, Shon Morrison <SMorrison@cosb.us>

Hi Tiffany,

I responded to your questions below. However, you might also consider consulting with your tax attorney/advisor on this matter.

Let us know if you have any questions.

Tom Slavich, Assessor

San Benito County Assessor's Office

440 Fifth Street, Rm 108

Hollister, CA 95023

(831) 636-4030

From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]**Sent:** Friday, February 01, 2019 1:26 PM**To:** Tom Slavich**Subject:** Proposition 58 and Trusts

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment? Filing of Form BOE-58-AH Claim for Reassessment Exclusion for Transfer between Parent & Child with the Assessor's Office. This form is on our Assessor's website: www.cosb.us/county-departments/assessor. We would also ask for a copy of the trust when filing the exclusion.

2. Does the trust really need to get a 3rd party loan to make this happen? I have attached Frequently Asked Questions – Exclusions from Reappraisal (Prop 58)/Assessor Letter 91-08/Property Tax Annotations – Parent-Child Transfers Regarding Trusts(625.0201/625.0235/625.0235.005/625.0235.010/625.0235.015). I am not sure what you read on line, but the Property Tax Annotations address the various scenarios. Using your cash savings to pay your brother and sister would not work and cause an reappraisal of the property.

Sounds like all the assets of the trust would be divided equally. If the trustee of the trust (assuming originally revocable) has the discretionary authority to allow a non pro rata distribution of trust real property to one beneficiary this may equalize the value of the beneficiaries' interest in the trust assets by encumbering the real property with a loan and distributing the loan proceeds to the other beneficiaries. If the beneficiary is the trustor's child then the parent to child exclusion would be applicable.


However, a loan made by the beneficiary of the real property rather than the trustee in order to equalize the trust interests would be considered payment for the other beneficiaries' interest in the real property resulting in a transfer between beneficiaries'. In this case, the parent-child exclusion would not apply to the interests transferred between beneficiaries.

Thank you,

Tiffany Jones

3 attachments

 **Exclusions from Reappraisal – Frequently Asked Questions – Board of Equalization.html**
51K

 **Assessor Letter 91-08.pdf**
337K

 **PARENT CHILD TRANSFER - TRUST.pdf**
226K



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

3 messages

Tiffany Jones <tiffanyjones2702@gmail.com>
To: bob.dutton@asr.sbcounty.gov

Wed, Jan 23, 2019 at 8:16 AM

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,

Tiffany Jones

Dutton, Bob - ARC <Bob.Dutton@arc.sbcounty.gov>
To: Tiffany Jones <tiffanyjones2702@gmail.com>
Cc: "Brown, Crystal - ARC" <crystal.brown@arc.sbcounty.gov>

Wed, Jan 23, 2019 at 12:33 PM

Thank you for contacting my office. I will have someone contact you to assist.

Bob Dutton

From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]
Sent: Wednesday, January 23, 2019 8:17 AM
To: Dutton, Bob - ARC
Subject: Parent-Child Transfer and Trusts

[Quoted text hidden]

Valdes, Theresa - ARC <theresa.valdes@arc.sbcounty.gov>
To: "tiffanyjones2702@gmail.com" <tiffanyjones2702@gmail.com>

Wed, Jan 23, 2019 at 12:56 PM

Good afternoon,

In response to your questions below, a Claim for Reassessment Exclusion for Transfer between Parent and Child would need to be filed with our office along with a copy of the trust. I have attached the exclusion claim for your convenience.

As to your second question, yes, the trust would have to encumber the property in order to equalize distribution to your siblings, and you receive the full benefit of the exclusion. In addition, the trustee who is encumbering the property, cannot be the same person who intends to take possession of the property.

Since the exclusion is for the inheritance, the children are only eligible to the portion that was inherited. Loaning personal funds to the trust, or "buying" out your sibling's interest from your personal savings, is considered a sibling transfer and not eligible for exclusion.

Please let me know if you have any further questions. Thank you.



Theresa Valdes

Supervising Title Transfer Technician I

Office of Bob Dutton

Assessor-Recorder-County Clerk

Phone: 909.252.5531 | Fax: 909.387.6765

Main: 909-387-8307

theresa.valdes@arc.sbcounty.gov

www.sbcounty.gov/arc

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From: Tiffany Jones [<mailto:tiffanyjones2702@gmail.com>]

Sent: Wednesday, January 23, 2019 8:17 AM

To: Dutton, Bob - ARC

Subject: Parent-Child Transfer and Trusts

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

[Quoted text hidden]

Prop 58.pdf

San
Bernardino 2

563K

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 1:28 PM

To: "Valdes, Theresa - ARC" <theresa.valdes@arc.sbcounty.gov>

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

The trust is share-share alike. We all get an equal distribution
The trustee has the right to encumber the property held in trust.
The real property is the only asset of the trust.

I found a 3rd party lender willing to lend enough money to the trust to pay my brother and sister their share. I will get an equal share in equity (Property Value minus the Trust Loan).

My question is what of the following documentation is required:

1. Form BOE- 58-AH
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9. Recorded Grant Deed showing transfer of property from trust to me.

I assume you will want to prove that a 3rd party loan was taken by the trust, but I did not know how to prove it.

Thank you,

Tiffany Jones

[Quoted text hidden]

Valdes, Theresa - ARC <theresa.valdes@arc.sbcounty.gov>

Wed, Jan 30, 2019 at 2:48 PM

To: Tiffany Jones <tiffanyjones2702@gmail.com>

Hello Tiffany,

Please see my notes below. In regards to any supporting documentation, you can include it when you file the Prop. 58 claim.

In the event this may take some time, you can always file a Protective Claim for all three children with the Affidavit of Death, and then file an Amended Claim for just yourself when you get the 3rd Party Loan processed and the property finally transfers to you. Be sure that once the loan goes through, the third party deeds back to the trust.

In addition, if you will send me the address or parcel number, I am happy to put some notes as to our correspondence so that we know what you are intending to do.

Theresa Valdes

909-252-5531

From: Tiffany Jones <tiffanyjones2702@gmail.com>
Sent: Wednesday, January 30, 2019 1:29 PM
To: Valdes, Theresa - ARC <theresa.valdes@arc.sbcounty.gov>
Subject: Re: Parent-Child Transfer and Trusts

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

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The trustee has the right to encumber the property held in trust.

The real property is the only asset of the trust.

I found a 3rd party lender willing to lend enough money to the trust to pay my brother and sister their share. I will get an equal share in equity (Property Value minus the Trust Loan).

My question is what of the following documentation is required:

1. Form BOE- 58-AH
2. Copy of Trust and all Amendments
3. Affidavit of Death (May be filed before submission) -
4. Heir Distribution Spreadsheet
5. Copy of the recorded deed for the 3rd party loan – We will have access to see this, so just the document number.
6. Copy of the closing statement for the 3rd party loan
7. Bank Statement from the Trust showing the 3rd party loan proceeds are put in the trust – The Closing statement should indicate the funds were deposited to the Trust. If so, this will not be required.
8. Bank Statement from the trust showing the cash distributions to my brother and sister – As long as you include this in the distribution spreadsheet, we would not require this.
9. Recorded Grant Deed showing transfer of property from trust to me. – Again, we will have access to see this, so just the document number.

[Quoted text hidden]

[Quoted text hidden]

As to your second question, yes, the trust would have to encumber the property in order to equalize distribution to your siblings, and you receive the full benefit of the exclusion. In addition, the trustee who is encumbering the property, cannot be the same person who intends to take possession of the property.

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Please let me know if you have any further questions. Thank you.



Theresa Valdes

Supervising Title Transfer Technician I

Office of Bob Dutton

Assessor-Recorder-County Clerk

Phone: 909.252.5531 | Fax: 909.387.6765

Main: 909-387-8307

theresa.valdes@arc.sbcounty.gov

www.sbcounty.gov/arc

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From: Tiffany Jones [<mailto:tiffanyjones2702@gmail.com>]

Sent: Wednesday, January 23, 2019 8:17 AM

To: Dutton, Bob - ARC

Subject: Parent-Child Transfer and Trusts

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[Quoted text hidden]

Prop 58.pdf



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

6 messages

Tiffany Jones <tiffanyjones2702@gmail.com>
To: arcc.fgg@sdcounty.ca.gov

Wed, Jan 23, 2019 at 7:08 AM

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,
Tiffany Jones

Azhocar, Susan R <Susan.Azhocar@sdcounty.ca.gov>
To: "tiffanyjones2702@gmail.com" <tiffanyjones2702@gmail.com>
Cc: "FGG, ARCC" <ARCC.FGG@sdcounty.ca.gov>, "Gomez, Robert" <Robert.Gomez@sdcounty.ca.gov>

Wed, Jan 23, 2019 at 8:28 AM

Hi Ms. Jones,

Yes that is correct. If the trust does not have any other assets and you pay your siblings money it will cause a reassessment of 66%. The loan will need to come from a 3rd party and not from the person/beneficiary receiving the property to retain the 100% exclusion.

- 1) The parent/child Exclusion form and if you give me you parcel number I can send you one.
- 2) Yes.
- 3)

Sincerely,

Susan Azhocar |Property Assessment Specialist III

County of San Diego | Parent/Child Unit

(t) 619-531-5848 (f) 685-2550

Email: Susan.Azhocar@sdcounty.ca.gov

From: Tiffany Jones <tiffanyjones2702@gmail.com>
Sent: Wednesday, January 23, 2019 7:09 AM
To: FGG, ARCC <ARCC.FGG@sdcounty.ca.gov>
Subject: Parent-Child Transfer and Trusts

[Quoted text hidden]

Tiffany Jones <tiffanyjones2702@gmail.com>
To: "Azhocar, Susan R" <Susan.Azhocar@sdcounty.ca.gov>

Wed, Jan 30, 2019 at 1:11 PM

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

The trust is share-share alike. We all get an equal distribution
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Thank you,

Tiffany Jones
[Quoted text hidden]

Azhocar, Susan R <Susan.Azhocar@sdcounty.ca.gov>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 1:19 PM

The Deed of trust showing the Trust is taking out the loan under the trust name.

From: Tiffany Jones <tiffanyjones2702@gmail.com>
Sent: Wednesday, January 30, 2019 1:12 PM
To: Azhocar, Susan R <Susan.Azhocar@sdcounty.ca.gov>
Subject: Re: Parent-Child Transfer and Trusts

[Quoted text hidden]

Tiffany Jones <tiffanyjones2702@gmail.com>
To: "Azhocar, Susan R" <Susan.Azhocar@sdcounty.ca.gov>

Wed, Jan 30, 2019 at 2:10 PM

Do you want items 1 through 5 or just 5?

Tiffany Jones
[Quoted text hidden]

1/30/2019

Gmail - Parent-Child Transfer and Trusts

Sim
DIEGO
2x3

Azhocar, Susan R <Susan.Azhocar@sdcounty.ca.gov>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 2:54 PM

1 thru 8 should do it.

From: Tiffany Jones <tiffanyjones2702@gmail.com>
Sent: Wednesday, January 30, 2019 2:11 PM

[Quoted text hidden]

[Quoted text hidden]



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

3 messages

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 23, 2019 at 7:09 AM

To: assessor@sfgov.org

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

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2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,
Tiffany Jones

Assessor, SF (ASR) <assessor@sfgov.org>

Wed, Jan 23, 2019 at 8:01 AM

To: Tiffany Jones <tiffanyjones2702@gmail.com>

Hello,

1. A parent to child prop 58 form is needed to apply for an exclusion visit our website for the form and additional recording information. www.sfassessor.org
2. This question cannot be answered by our office. This would need to be answered by a lender, title company or attorney.

Feel free to call me with any questions.

Best Wishes,

Diane



Diane Cirrincione

Public Service

City Hall, RM 190

Phone: 415-554-5596

"With integrity we work together to build a better San Francisco through superior customer service, fair property taxation and the preservation of public records."

From: Tiffany Jones [mailto:tiffanyjones2702@gmail.com]
Sent: Wednesday, January 23, 2019 7:10 AM
To: Assessor, SF (ASR) <assessor@sfgov.org>
Subject: Parent-Child Transfer and Trusts

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

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Tiffany Jones



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To: "Assessor, SF (ASR)" <assessor@sfgov.org>

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Tiffany Jones

On Wed, Jan 23, 2019 at 8:01 AM Assessor, SF (ASR) <assessor@sfgov.org> wrote:

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Best Wishes,

Diane



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Subject: Parent-Child Transfer and Trusts

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Thank you,

Tiffany Jones

Sim
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Search mail

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14

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Snoozed

Sent

Drafts

More



Tiffany

+

RE: Sent from Snipping Tool Inbox x**Ballesteros, Theresa (ASR)** <theresa.ballesteros@sfgov.org>
to me

Hello Tiffany,

The list of documents you provided will suffice.

Best,

Theresa

Theresa Ballesteros | ASR Senior Office Specialist | Office of the Assessor-Record**From:** Cirrincione, Diane (ASR)**Sent:** Wednesday, January 30, 2019 1:29 PM**To:** Ballesteros, Theresa (ASR) <theresa.ballesteros@sfgov.org>**Subject:** Sent from Snipping Tool

No recent chats

[Start a new one](#)

Message sent.



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

4 messages

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 23, 2019 at 7:13 AM

To: assessor@sjgov.org

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

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Thank you,

Tiffany Jones

Assessor Email <assessor@sjgov.org>

Mon, Jan 28, 2019 at 10:29 AM

To: Tiffany Jones <tiffanyjones2702@gmail.com>

Good morning, Tiffany,

My condolences for the passing of your mother. I am attaching the link to the parent and child exclusion form for your information. In regards to your second question, you may want to consult with an attorney regarding trust matters.

Thank you,

Jessica Knisely

<https://www.capropeforms.org/counties/San%20Joaquin/form/BOE-58-AH/>

From: Tiffany Jones <tiffanyjones2702@gmail.com>**Sent:** Wednesday, January 23, 2019 7:14 AM**To:** Assessor Email <assessor@sjgov.org>**Subject:** Parent-Child Transfer and Trusts

[Quoted text hidden]



Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

4 messages

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 23, 2019 at 7:13 AM

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Tiffany Jones

Assessor Email <assessor@sjgov.org>

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Jessica Knisely

<https://www.capropeforms.org/counties/San%20Joaquin/form/BOE-58-AH/>

[Quoted text hidden]

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 1:35 PM

To: Assessor Email <assessor@sjgov.org>

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

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I assume you will want to prove that a 3rd party loan was taken by the trust, but I did not know how to prove it.

Thank you,

Tiffany Jones

[Quoted text hidden]

Assessor Email <assessor@sjgov.org>
To: Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 2:05 PM

Hi Tiffany,

The Assessor's Office does not have jurisdiction over such matters. You may want to contact the Recorder-County Clerk Department as they serve as custodian of public records, recorder of real property documents and notary public bonds. I have provided their contact information below for you.

Jessica Knisely

Recorder/County Clerk Office
44 North San Joaquin Street
Second Floor, Suite 260
Stockton, CA 95202
Phone: (209) 468-3939
Fax: (209) 468-8040

[Quoted text hidden]



Tiffany Jones <tiffanyjones2702@gmail.com>

Proposition 58 and Trusts

2 messages

Tiffany Jones <tiffanyjones2702@gmail.com>

Fri, Feb 1, 2019 at 1:21 PM

To: assessor@co.slo.ca.us

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

My questions are:

1. What documentation is required to get approved for the exclusion for reassessment?
2. Does the trust really need to get a 3rd party loan to make this happen?

Thank you,

Tiffany Jones

Barbara Edginton <bedginton@co.slo.ca.us>

Mon, Feb 4, 2019 at 3:56 PM

To: "tiffanyjones2702@gmail.com" <tiffanyjones2702@gmail.com>

Good afternoon,

Thank you for your inquiry. Let me respond to your second question first. The Board of Equalization provides interpretation and guidelines to Assessors for various statutes. Regarding the parent/child exclusion, in Assessor's Handbook 401, page 90, it states:

Equalizing Trust Distributions

Equalization issues may arise when a single property is the primary trust asset and that asset is distributed to one beneficiary. If the trustee has the authority to make a non-pro rata distribution and thus allocate specific assets to an individual beneficiary and the value of the property does not exceed that beneficiary's share of the trust estate, the transfer is considered to be made from the trustor to the beneficiary and eligible for the parent-child exclusion. The value of the property is the market value on the date of the parent-child transfer (typically date of death), less any encumbrances on the property.

Furthermore, unless prohibited by the trust, a trustee who makes a non-pro rata distribution may encumber the property with a loan prior to distributing the property to one beneficiary. The trustee may then distribute the loan proceeds to the other beneficiaries to equalize the value of the distributions to all of the beneficiaries. However, the trustee must be the party encumbering the property and the trustee may not encumber the property with a loan from the beneficiary who will receive the property. The trustee may obtain a loan secured by the property from a third-party lender, such as a bank, or a beneficiary who will not receive the property as part of the trust distribution.

Example 12-6

X transfers her unencumbered principal residence to her trust, to be distributed on a share-and-share-alike basis to B and C upon X's death. The trustee is authorized to make non-pro rata distributions.

As of X's date of death, the real property is the only asset and has a fair market value of \$500,000. If the trustee decides to distribute the entire residence to B, the trustee may first borrow \$250,000 from a third party, secured by the residence, and may distribute the loan proceeds to C. The trustee may then distribute the residence, encumbered by the \$250,000 deed of trust, to B; B would have to repay the loan. The encumbrance would equalize the non-pro rata distribution.

If B and C are the children of X, the transfer of the principal residence to B qualifies for the parent-child exclusion if all other requirements are satisfied.

The answer to your second question is yes. If the real property is the only trust asset, then in order to qualify the property for a 100% parent/child exclusion, the trustee of your mother's trust must encumber the property with a loan in an amount to equalize the distribution of the trust asset. (In other words, the loan must be to the trustee of your mother's trust, not an individual.) The loan must be from anyone other than the person receiving the property, or that person's spouse or registered domestic partner. Once the loan is complete and the exclusion allowed, the loan can be paid off. If you pay your siblings directly, it is considered a purchase, and their 2/3 interest would be reassessed.

Your first question is what documentation we would require. We would need:

1. A completed Death of Real Property Owner form.
2. A completed parent/child exclusion claim.
3. A complete copy of your mother's trust and all amendments.
4. A statement signed under penalty of perjury by the trustee as to the total asset value of the trust (as of your mother's date of passing), including the market value of all real property, and an outline of what trust assets are going to each beneficiary.
5. A copy of the recorded Deed of Trust encumbering the property to equalize the distribution.

If you have any additional questions, please call or email me.

Regards,

Barbara L. Edginton

Assessment Manager

San Luis Obispo County

Phone: 805-781-5666

Email: bedginton@co.slo.ca.us

From: Tiffany Jones [<mailto:tiffanyjones2702@gmail.com>]

Sent: Friday, February 01, 2019 1:21 PM

To: Generic Assessor <assessor@co.slo.ca.us>

Subject: [EXT]Proposition 58 and Trusts

ATTENTION: This email originated from outside the County's network. Use caution when opening attachments or links.

[Quoted text hidden]

This e-mail, and any files transmitted with it, are intended only for the person or entity to which it is addressed and may contain confidential, protected, and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient, is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

SAN
MATEO

Tiffany Jones <tiffanyjones2702@gmail.com>

Parent-Child Transfer and Trusts

2 messages

Laura Reeves <LReeves@smcacre.org>

Wed, Jan 23, 2019 at 8:38 AM

To: "tiffanyjones2702@gmail.com" <tiffanyjones2702@gmail.com>

You will need the claim for reassessment exclusion which is found in our website @ smcacre.org. Also, you will need to provide us with a copy of the trust agreement. As far as the 2nd question you will need to contact an attorney for this advice. If you have any further questions you can call the change in Ownership duty desk @ 640 599-1743.

From: Tiffany Jones <tiffanyjones2702@gmail.com>**Sent:** Wednesday, January 23, 2019 7:17 AM**To:** CARE_ASR_AssessorEmail <assessor@smcacre.org>**Subject:** Parent-Child Transfer and Trusts

My Mom recently died and her property was held in a trust. It was pretty much the only asset of the trust. My brother and sister want cash, but I would like to keep the property. I have the savings to pay my brother and sister their share, but I read something online about needing to get a 3rd party loan.

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Thank you,

Tiffany Jones

Laura Reeves

Appraiser

Change of Ownership

Office of Mark Church

Assessor-County Clerk-Recorder & Chief Elections Officer

555 County Center, 3rd Floor | [Redwood City, CA 94063](#)

Tel.: (650) 599-1261 | Fax: (650) 599.7435

Emaillreeves@smcacre.org | Website: www.smcacre.org



COUNTY OF SAN MATEO

Save Paper. Think Before You Print.

Tiffany Jones <tiffanyjones2702@gmail.com>

Wed, Jan 30, 2019 at 1:12 PM

To: Laura Reeves <LReeves@smcacre.org>

Thank you for your quick response. My attorney told me that each county works differently and he wanted me to find out what documentation is needed. I have a pretty firm grasp of the Board of Equalization's requirements for exclusion for reassessment when a property is held in trust. Here are some of the specifics of our particular trust:

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[Quoted text hidden]



Tiffany Jones <tiffanyjones2702@gmail.com>

Automatic reply: Parent-Child Transfer and Trusts

1 message

Laura Reeves <LReeves@smcacre.org>

Wed, Jan 30, 2019 at 1:12 PM

To: Tiffany Jones <tiffanyjones2702@gmail.com>

I will be unavailable from January 28th thru February 12th.. If you require immediate assistance please call the Change in Ownership duty desk @ 650 599-1743.

**COUNTY OF SAN MATEO**

Save Paper. Think Before You Print.

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Thank you,

Tiffany Jones

[Quoted text hidden]

Laura Reeves <LReeves@smcacre.org>

Wed, Feb 13, 2019 at 10:37 AM

To: Tiffany Jones <tiffanyjones2702@gmail.com>

We will also need a statement of facts signed under oath explaining the distribution of the trust.

Laura Reeves**Appraiser****Change of Ownership****Office of Mark Church***Assessor-County Clerk-Recorder & Chief Elections Officer*555 County Center, 3rd Floor | [Redwood City, CA 94063](#)

Tel.: (650) 599-1261 | Fax: (650) 599.7435