

Issue Paper Number **10-007**



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

Preliminary Change of Ownership Report and Change in Ownership Statement

I. Issue

What forms should the State Board of Equalization (Board) adopt as a *Preliminary Change of Ownership Report* and *Change in Ownership Statement* for property taxation purposes?

II. Alternative 1 - Staff Recommendation

Staff recommends that the attached proposed form BOE-502-A, *Preliminary Change of Ownership Report*, and form BOE-502-AH, *Change in Ownership Statement*, be adopted by the Board.

III. Other Alternative(s) Considered

None.

IV. Background

Government Code section 15606, subdivision (d), mandates that the Board shall prescribe and enforce the use of all forms for the assessment of property for taxation. More specifically, Revenue and Taxation Code¹ sections 480 and 480.4 provide that the Board will prescribe the *Change in Ownership Statement* (COS) and the *Preliminary Change of Ownership Report* (PCOR), respectively.

Board-sponsored Senate Bill 824² was signed by the Governor on August 5, 2009 and took effect on January 1, 2010. SB 824 amended sections 480.3 and 480.4 to remove the specific detail of the PCOR from statute and instead authorized the Board to prescribe the form after consultation with the California Assessors' Association (CAA) and interested parties. SB 824 specified that the PCOR contain information that includes, but is not limited to, the following:

- A description of the property.
- The parties to the transaction.
- The date of acquisition.
- The amount, if any, of the consideration paid for the property, whether paid in money or otherwise.
- The terms of the transaction.

Under property tax law,³ real property is reassessed to its current fair market value when there is a change in ownership. Section 480 requires that whenever there is a change in ownership of real property, the property owner must file a COS. There is no penalty for failing to file the statement unless the county assessor prompts the property owner to file the statement by making a written request. If requested, then the taxpayer has 45 days to file the COS or otherwise incur penalties.

In practice, however, many taxpayers file a PCOR rather than a COS. Section 480.3 requires the transferee of real property to complete and file a PCOR when any document effecting a change in ownership, such as a grant deed, is submitted to the county recorder for recordation. If a PCOR is not concurrently filed, the document may still be recorded, but an additional recording fee of \$20 may be charged.

The COS is primarily used by county assessors to follow-up with taxpayers who do not file a PCOR at the time of recording a transfer document, and for those transfers that occur that do not require a document to be recorded.

The COS and PCOR provide a county assessor with information necessary to value a property for tax purposes. The PCOR and COS also assist a county assessor in determining whether the transfer of property might be eligible for one of the many change in ownership exclusions that would avoid the need to reassess the property.

The language in the PCOR and COS currently in use is essentially identical except that, as provided in section 480, the COS must contain a notice informing the transferee of the penalty provisions associated with a taxpayer not completing the COS.

¹ All statutory references are to the Revenue and Taxation Code unless specified otherwise.

² Stats. 2009, Ch. 67.

³ Article XIII A, section 2 of the California Constitution; Revenue and Taxation Code sections 60 through 69.5.

V. Discussion

In response to the provisions of SB 824, a project was initiated to revise the PCOR, and simultaneously make the COS language mirror the revised PCOR. Board staff worked with the California Assessors' Association, California Escrow Association, California Land Title Association, Independent Escrow Companies, Consulting Escrow Companies, legislative advocates for these groups, and other interested parties to revise the PCOR. The primary goal was to have the PCOR solicit only relevant information and to make it easier for taxpayers to complete. The interaction with interested parties included:

- November 3, 2009: Staff released Letter To Assessors 2009/050 advising recipients of the project and inviting interested parties to submit suggestions and comments.
- November 20, 2009: Staff received comments from the California Escrow Association following discussion at their annual conference.
- November 24, 2009: First drafts of the forms were released to interested parties.
- December 14, 2009: Second drafts of forms were released to interested parties.
- January 28, 2010: Draft forms discussed at the CAA Forms Subcommittee meeting.
- March 3, 2010: Third drafts of the forms were released to the CAA Forms Subcommittee members.
- March 19, 2010: CAA Executive Committee discussed the proposed changes to the forms.
- April 2, 2010: Third drafts of the forms were released to escrow and title company associations.
- April 21, 2010: Staff released Letter To Assessors 2010/021, with current drafts of the forms, and advised recipients of an interested parties meeting.
- May 11, 2010: Staff met with interested parties to discuss the proposed changes to the forms.

The attached proposed PCOR and COS represent the consensus of interested parties.

VI. Alternative 1 - Staff Recommendation

Staff recommends that the Board adopt the attached proposed PCOR and COS to implement the provisions of sections 480 and 480.4.

A. Description of Alternative 1

The attached PCOR and COS were drafted for use by county assessors, escrow companies, and title companies to provide to transferees of real property when any document effecting a change in ownership is recorded. The draft PCOR and COS were substantially revised in an effort to make the forms easier for the majority of taxpayers completing the documents to understand—the taxpayers transferring residential properties.

The one common comment that Board staff received from interested parties participating in this project was that the forms were much too complicated. The title and escrow company agents indicated that the PCOR was the only form in the extensive packet of documents that they provide to sellers/buyers that they are unable to assist the buyer/seller in completing because of the confusing and complicated language contained in the PCOR.

Board staff proceeded with the project to create a PCOR and COS that would (1) solicit information necessary for county assessors to make value judgments for the majority of transferred properties; (2) eliminate questions seeking information that were unnecessary to the value judgment process for the property being transferred; and (3) use language that is easier for the majority of taxpayers to understand. Accordingly:

- The transfer information section was rearranged by grouping related property tax exclusions together and by using less cumbersome language;
- Some transfer information questions were deleted as unnecessary to the value judgment determination efforts;
- Some data solicited regarding terms of a sale were deleted as unnecessary to the value judgment determination;
- The questions in the property information section were rearranged and arrayed with easy-to-use check boxes; and
- Requirements to have "lists" attached to the PCOR were eliminated with the belief that most taxpayers do not have copies of lists with them while completing the PCOR at the title or escrow company.

B. Pros of Alternative 1

Adoption of the attached PCOR and COS will promote uniformity within the 58 counties throughout California and will comply with the Board's mandated requirements in sections 480 and 480.4. Additionally, it is anticipated that the PCOR will be easier for escrow and title company agents to administer on behalf of the county assessors; and, therefore, provide county assessors with more accurate and complete information which should entail fewer follow-up inquiries by county assessors' staff, particularly for residential transfers.

C. Cons of Alternative 1

None.

D. Statutory or Regulatory Change for Alternative 1

None

E. Operational Impact of Alternative 1

None

F. Administrative Impact of Alternative 1

1. Cost Impact

Development of Property Tax forms is within the scope of statutory duties of the County-Assessed Properties Division and will be absorbed by existing staff.

2. Revenue Impact

None

G. Taxpayer/Customer Impact of Alternative 1

None

H. Critical Time Frames of Alternative 1

None

VII. Other Alternatives

None

Preparer/Reviewer Information

Prepared by: Property and Special Taxes Department; County-Assessed Properties Division

Current as of: June 15, 2010

PRELIMINARY CHANGE OF OWNERSHIP REPORT

To be completed by the transferee (buyer) prior to a transfer of subject property, in accordance with section 480.3 of the Revenue and Taxation Code. A *Preliminary Change of Ownership Report* must be filed with each conveyance in the County Recorder's office for the county where the property is located. Please answer all questions in each section, and sign and complete the certification before filing. This form may be used in all 58 California counties. If a document evidencing a change in ownership is presented to the Recorder for recordation without the concurrent filing of a *Preliminary Change of Ownership Report*, the Recorder may charge an additional recording fee of twenty dollars (\$20).

NOTICE: The property which you acquired may be subject to a supplemental assessment in an amount to be determined by the County Assessor. Supplemental assessments are not paid by the title or escrow company at close of escrow, and are not included in lender impound accounts. **You may be responsible for the current or upcoming property taxes even if you do not receive the tax bill.**

SELLER/TRANSFEROR		ASSESSOR'S PARCEL NUMBER	
BUYER/TRANSFEEE		BUYER'S DAYTIME TELEPHONE NUMBER ()	
STREET ADDRESS OR PHYSICAL LOCATION OF REAL PROPERTY			
MAIL PROPERTY TAX INFORMATION TO (NAME)			
ADDRESS		CITY	STATE ZIP CODE
<input type="checkbox"/> YES <input type="checkbox"/> NO	This property is intended as my principal residence. If YES, please indicate the date of occupancy or intended occupancy.		MO DAY YEAR

PART 1. TRANSFER INFORMATION *Please complete all statements.*

- YES NO
- A. This transfer is solely between spouses (*addition or removal of a spouse, death of a spouse, divorce settlement, etc.*).
 - B. This transfer is solely between domestic partners currently registered with the California Secretary of State (*addition or removal of a partner, death of a partner, termination settlement, etc.*).
 - *C. This is a transfer between: parent(s) and child(ren) grandparent(s) and grandchild(ren).
 - *D. This transaction is to replace a principal residence by a person 55 years of age or older. Within the same county? YES NO
 - *E. This transaction is to replace a principal residence by a person who is severely disabled as defined by Revenue and Taxation Code section 69.5. Within the same county? YES NO
 - F. This transaction is only a correction of the name(s) of the person(s) holding title to the property (*e.g., a name change upon marriage*). If YES, please explain: _____
 - G. The recorded document creates, terminates, or reconveys a lender's interest in the property.
 - H. This transaction is recorded only as a requirement for financing purposes or to create, terminate, or reconvey a security interest (*e.g., cosigner*). If YES, please explain: _____
 - I. The recorded document substitutes a trustee of a trust, mortgage, or other similar document.
 - J. This is a transfer of property:
 - 1. to/from a revocable trust that may be revoked by the transferor and is for the benefit of the transferor, and/or the transferor's spouse registered domestic partner.
 - 2. to/from a trust that may be revoked by the creator/grantor/trustor who is also a joint tenant, and which names the other joint tenant(s) as beneficiaries when the creator/grantor/trustor dies.
 - 3. to/from an irrevocable trust for the benefit of the creator/grantor/trustor and/or grantor's/trustor's spouse grantor's/trustor's registered domestic partner.
 - 4. to/from an irrevocable trust from which the property reverts to the creator/grantor/trustor within 12 years.
 - K. This property is subject to a lease with a remaining lease term of 35 years or more including written options.
 - L. This is a transfer between parties in which proportional interests of the transferor(s) and transferee(s) in each and every parcel being transferred remain exactly the same after the transfer.
 - M. This is a transfer subject to subsidized low-income housing requirements with governmentally imposed restrictions.
 - *N. This transfer is to the first purchaser of a new building containing an active solar energy system.

* If you checked YES to statements C, D, or E, you may qualify for a property tax reassessment exclusion, which may allow you to maintain your previous tax base. If you checked YES to statement N, you may qualify for a property tax new construction exclusion. A claim form must be filed and all requirements met in order to obtain any of these exclusions. Contact the Assessor for claim forms.

Please provide any other information that will help the Assessor understand the nature of the transfer.

THIS DOCUMENT IS NOT SUBJECT TO PUBLIC INSPECTION

PART 2. OTHER TRANSFER INFORMATION

Check and complete as applicable.

- A. Date of transfer, if other than recording date: _____
- B. Type of transfer:
- Purchase Foreclosure Gift Trade or exchange Merger, stock, or partnership acquisition (Form BOE-100-B)
- Contract of sale. Date of contract: _____ Inheritance. Date of death: _____
- Sale/leaseback Creation of a lease Assignment of a lease Termination of a lease. Date lease began: _____
- Original term in years (including written options): _____ Remaining term in years (including written options): _____
- Other. Please explain: _____
- C. Only a partial interest in the property was transferred. YES NO If YES, indicate the percentage transferred: _____ %

PART 3. PURCHASE PRICE AND TERMS OF SALE

Check and complete as applicable.

- A. Total purchase or acquisition price. Do not include closing costs or mortgage insurance. \$ _____
- Down payment: \$ _____ Interest rate: _____ % Seller-paid points or closing costs: \$ _____
- Balloon payment: \$ _____
- Loan carried by seller Assumption of Contractual Assessment with a remaining balance of: \$ _____
- B. The property was purchased: Through real estate broker. Broker name: _____ Phone number: () _____
- Direct from seller From a family member
- Other. Please explain: _____
- C. Please explain any special terms, seller concessions, financing, and any other information (e.g., buyer assumed the existing loan balance) that would assist the Assessor in the valuation of your property.
- _____
- _____

PART 4. PROPERTY INFORMATION

Check and complete as applicable.

- A. Type of property transferred
- Single-family residence Co-op/Own-your-own Manufactured home
- Multiple-family residence. Number of units: _____ Condominium Unimproved lot
- Other. Description: (i.e., timber, mineral, water rights, etc.) _____ Timeshare Commercial/Industrial
- B. YES NO Personal/business property, or incentives, are included in the purchase price. Examples are furniture, farm equipment, machinery, club memberships, etc. Attach list if available.
- If YES, enter the value of the personal/business property: \$ _____
- C. YES NO A manufactured home is included in the purchase price.
- If YES, enter the value attributed to the manufactured home: \$ _____
- YES NO The manufactured home is subject to local property tax. If NO, enter decal number: _____
- D. YES NO The property produces rental or other income.
- If YES, the income is from: Lease/rent Contract Mineral rights Other: _____
- E. The condition of the property at the time of sale was: Good Average Fair Poor

CERTIFICATION

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true and correct to the best of my knowledge and belief. This declaration is binding on each and every buyer/transferee.

SIGNATURE OF BUYER/TRANSFeree OR CORPORATE OFFICER	DATE
NAME OF BUYER/TRANSFeree/LEGAL REPRESENTATIVE/CORPORATE OFFICER (PLEASE PRINT)	TITLE
E-MAIL ADDRESS	

The Assessor's office may contact you for additional information regarding this transaction.

CHANGE IN OWNERSHIP STATEMENT

This statement represents a written request from the Assessor.
 Failure to file will result in the assessment of a penalty.

FILE THIS STATEMENT BY: _____

IMPORTANT NOTICE

The law requires any transferee acquiring an interest in real property or manufactured home subject to local property taxation, and that is assessed by the county assessor, to file a Change in Ownership Statement with the County Recorder or Assessor. The Change in Ownership Statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death or, if the estate is probated, shall be filed at the time the inventory and appraisal is filed. The failure to file a Change in Ownership Statement within 45 days from the date of a written request by the Assessor results in a penalty of either: (1) one hundred dollars (\$100); or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars (\$2,500) if that failure to file was not willful. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment.

SELLER/TRANSFEROR		ASSESSOR'S PARCEL NUMBER	
BUYER/TRANSFEEE		BUYER'S DAYTIME TELEPHONE NUMBER ()	
STREET ADDRESS OR PHYSICAL LOCATION OF REAL PROPERTY			
MAIL PROPERTY TAX INFORMATION TO (NAME)			
ADDRESS		CITY	STATE ZIP CODE
<input type="checkbox"/> YES	<input type="checkbox"/> NO	This property is intended as my principal residence. If YES, please indicate the date of occupancy or intended occupancy.	
		MO	DAY YEAR

PART 1. TRANSFER INFORMATION Please complete all statements.

- YES NO
- A. This transfer is solely between spouses (addition or removal of a spouse, death of a spouse, divorce settlement, etc.).
 - B. This transfer is solely between domestic partners currently registered with the California Secretary of State (addition or removal of a partner, death of a partner, termination settlement, etc.).
 - *C. This is a transfer between: parent(s) and child(ren) grandparent(s) and grandchild(ren).
 - *D. This transaction is to replace a principal residence by a person 55 years of age or older. Within the same county? YES NO
 - *E. This transaction is to replace a principal residence by a person who is severely disabled as defined by Revenue and Taxation Code section 69.5. Within the same county? YES NO
 - F. This transaction is only a correction of the name(s) of the person(s) holding title to the property (e.g., a name change upon marriage). If YES, please explain: _____
 - G. The recorded document creates, terminates, or reconveys a lender's interest in the property.
 - H. This transaction is recorded only as a requirement for financing purposes or to create, terminate, or reconvey a security interest (e.g., cosigner). If YES, please explain: _____
 - I. The recorded document substitutes a trustee of a trust, mortgage, or other similar document.
 - J. This is a transfer of property:
 - 1. to/from a revocable trust that may be revoked by the transferor and is for the benefit of the transferor, and/or the transferor's spouse registered domestic partner.
 - 2. to/from a trust that may be revoked by the creator/grantor/trustor who is also a joint tenant, and which names the other joint tenant(s) as beneficiaries when the creator/grantor/trustor dies.
 - 3. to/from an irrevocable trust for the benefit of the creator/grantor/trustor and/or grantor's/trustor's spouse grantor's/trustor's registered domestic partner.
 - 4. to/from an irrevocable trust from which the property reverts to the creator/grantor/trustor within 12 years.
 - K. This property is subject to a lease with a remaining lease term of 35 years or more including written options.
 - L. This is a transfer between parties in which proportional interests of the transferor(s) and transferee(s) in each and every parcel being transferred remain exactly the same after the transfer.
 - M. This is a transfer subject to subsidized low-income housing requirements with governmentally imposed restrictions.
 - *N. This transfer is to the first purchaser of a new building containing an active solar energy system.

* If you checked YES to statements C, D, or E, you may qualify for a property tax reassessment exclusion, which may allow you to maintain your previous tax base. If you checked YES to statement N, you may qualify for a property tax new construction exclusion. A claim form must be filed and all requirements met in order to obtain any of these exclusions. Contact the Assessor for claim forms.

Please provide any other information that will help the Assessor understand the nature of the transfer.

PART 2. OTHER TRANSFER INFORMATION

Check and complete as applicable.

A. Date of transfer, if other than recording date: _____

B. Type of transfer:

- Purchase Foreclosure Gift Trade or exchange Merger, stock, or partnership acquisition (Form BOE-100-B)
- Contract of sale. Date of contract: _____ Inheritance. Date of death: _____
- Sale/leaseback Creation of a lease Assignment of a lease Termination of a lease. Date lease began: _____
- Original term in years (including written options): _____ Remaining term in years (including written options): _____
- Other. Please explain: _____

C. Only a partial interest in the property was transferred. YES NO If YES, indicate the percentage transferred: _____ %

PART 3. PURCHASE PRICE AND TERMS OF SALE

Check and complete as applicable.

A. Total purchase or acquisition price. Do not include closing costs or mortgage insurance.

\$ _____

Down payment: \$ _____ Interest rate: _____ % Seller-paid points or closing costs: \$ _____

Ballon payment: \$ _____

Loan carried by seller Assumption of Contractual Assessment with a remaining balance of: \$ _____

B. The property was purchased: Through real estate broker. Broker name: _____ Phone number: (____) _____

Direct from seller From a family member

Other. Please explain: _____

C. Please explain any special terms, seller concessions, financing, and any other information (e.g., buyer assumed the existing loan balance) that would assist the Assessor in the valuation of your property.

PART 4. PROPERTY INFORMATION

Check and complete as applicable.

A. Type of property transferred

- Single-family residence Co-op/Own-your-own Manufactured home
- Multiple-family residence. Number of units: _____ Condominium Unimproved lot
- Other. Description: (i.e., timber, mineral, water rights, etc.) _____ Timeshare Commercial/Industrial

B. YES NO Personal/business property, or incentives, are included in the purchase price. Examples are furniture, farm equipment, machinery, club memberships, etc. Attach list if available.

If YES, enter the value of the personal/business property: \$ _____

C. YES NO A manufactured home is included in the purchase price.

If YES, enter the value attributed to the manufactured home: \$ _____

YES NO The manufactured home is subject to local property tax. If NO, enter decal number: _____

D. YES NO The property produces rental or other income.

If YES, the income is from: Lease/rent Contract Mineral rights Other: _____

E. The condition of the property at the time of sale was: Good Average Fair Poor

CERTIFICATION

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true and correct to the best of my knowledge and belief. This declaration is binding on each and every buyer/transferee.

SIGNATURE OF BUYER/TRANSFeree OR CORPORATE OFFICER	DATE
NAME OF BUYER/TRANSFeree/LEGAL REPRESENTATIVE/CORPORATE OFFICER (PLEASE PRINT)	TITLE
E-MAIL ADDRESS	

The Assessor's office may contact you for additional information regarding this transaction.