

**Final Statement of Reasons for**  
**Amendments to California Code of Regulations, Title 18,**  
**Section 462.520, *Exclusion from Change in Ownership – Intergenerational***  
***Transfers***

UPDATE OF INFORMATION IN THE INITIAL STATEMENT OF REASONS

The State Board of Equalization (Board) held a public hearing regarding the proposed adoption of California Code of Regulations, title 18, section 462.520, *Exclusion from Change in Ownership – Intergenerational Transfers* (the proposed amendments) on November 17, 2022. During the public hearing, the Board unanimously voted to adopt the proposed amendments without making any changes. The Board received two written comments regarding the proposed regulatory action and no interested parties appeared at the public hearing to comment. No written comments for the public hearing were received.

The factual basis, specific purposes, and necessity for, the problems to be addressed by, and the anticipated benefits from the adoption of the proposed amendments are the same as provided in the initial statement of reasons.

The Board anticipates that the proposed amendments will provide clarity of the relevant provisions within section 2.1 of article XIII A of the California Constitution related to the change in ownership exclusion for certain intergenerational transfers. Specifically, the Board is proposing this rule to implement, interpret, and make specific subdivisions (c) and (e) of section 2.1 of article XIII A of the California Constitution (Section 2.1).

The adoption of the proposed amendments is not mandated by federal law or regulations. There are no previously adopted or amended federal regulations that are identical to the proposed amendments.

The Board did not rely on any data or any technical, theoretical, or empirical study, report, or similar document in proposing or adopting the proposed amendments that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period.

In addition, the factual basis has not changed for the Board's initial determination that the proposed regulatory action will not have a significant adverse economic impact on business, the Board's determination that the proposed regulatory action is not a major regulation, as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000, and the Board's economic impact assessment, which determined that the Board's proposed regulatory action:

- Will neither create nor eliminate jobs in the State of California;
- Nor result in the elimination of existing businesses;

- Nor create new businesses or expand businesses currently doing business in the State of California; and
- Will have no effect on the health and welfare of California residents, worker safety, or the state’s environment.

The proposed amendments will not affect small business.

No Mandate on Local Agencies or School Districts

The Board has determined that the adoption of the proposed amendments does not impose a mandate on local agencies or school districts.

Summary and Responses to Comment Received

A. Public Written Comments

The Board received two written comments from interested parties regarding the proposed regulatory action during the public comment period:

1. October 2, 2022 – Joe Lim requests the addition of examples demonstrating other exclusions from change in ownership other than the intergenerational transfer exclusion that can be applied to a sibling to sibling transfer.

*Response:* Not accepted. The proposed amendments are intended to provide clarity of certain aspects of certain provisions of Section 2.1 as specified in the Notice of Proposed Regulatory Action and the Initial Statement of Reasons, and not intended to answer every potential interpretational question raised by Section 2.1. The additional examples requested by commenter do not address the specific provisions intended to be clarified in this rulemaking and may be addressed by the agency in other guidance.

2. October 1, 2022 – Kenneth Solomon contends that “Proposition 19 was obtained by a fraud upon the public in that the proponent of the proposition made no reference in all of there TV and other adds that the proposition would adversely affect the transfers between parent and child and grandparent and grandchild. Such a obvious omission was intended to misled the general public. Proposition should be declared invalid.”

*Response:* This comment is not responsive to the proposed rule that is the subject matter of this rulemaking. Proposition 19 was approved by voters at the November 3, 2020 general election. The Board of Equalization has no authority to declare Proposition 19 invalid.

B. Public Written Comment for November 17, 2022, hearing.

1. November 16, 2022 – Letter from Santa Clara County Assessor, Larry Stone. The Assessor raised six issues/suggestions regarding the rule as currently drafted. Two of the issues – non pro-rata distributions and joint tenancy – were raised in earlier rulemaking with staff responding that those issues would be taken up in future

guidance. The assessor asks for an update. Three issues dealt with appeals rights, burden of proof on certain appeals and a clarification of Examples 15 and 16. The final issue was a suggestion to seek clarifying legislation on prospective relief.

*Response:* Staff does not have a timeline for addressing the two issues raised in earlier comments, however, those topics are still planned to be addressed in future guidance. The topic of appeals rights and burden of proof are important issues but beyond the scope of this rulemaking and should be the subject of future discussions on remaining topics needing Board guidance. Changes to the example for clarification were not accepted since both examples are clear. Example 15 allows prospective relief since the property was the principal residence of the Child within the timeframe allowed. Example 16 allows no relief since the property was not the principal residence of the Child within the time frame allowed. Finally, the suggestion to add the prospective relief issue in any future clarifying legislation is appreciated and noted.

#### Determination Regarding Alternatives

By its motion on November 17, 2022, the Board determined that no alternative to the proposed amendments would be more effective in carrying out the purposes for which the amendments are proposed, would be as effective and less burdensome to affected private persons than the adopted amendments, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Board did not reject any reasonable alternative to the proposed amendments that would lessen any adverse impact the proposed regulatory action may have on small business. No reasonable alternative has been identified and brought to the Board's attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purposes for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.