RULE 462.520. EXCLUSION FROM CHANGE IN OWNERSHIP – INTERGENERATIONAL TRANSFERS.

Authority: Section 15606, Government Code.
References: Article XIII A, Section 2.1, California Constitution; and Section 60, Revenue and Taxation Code.

(a) General. Beginning on and after February 16, 2021, the exclusion from "change in ownership" for intergenerational transfers ~~shall not~~ SHALL include the transfer of "eligible real property" pursuant to (e)(10)(11) ~~which is the~~ for a principal residence or (e)(6) for a ~~the~~ family farm ~~of an which is the principal residence or the family farm of an eligible transferor in the case of transfers~~ transferred between "eligible transferors" and "eligible transferees" who meet the exclusion eligibility requirements ~~or between grandparents and their grandchildren, meeting the following conditions~~: pursuant to subdivision (e) of this rule.

(1) The "eligible real property" ~~principal residence or family farm of the transferor~~ must meet the exclusion requirements which are defined as either occupancy of a principal residence by an "eligible transferee" or operation of a family farm by an "eligible transferee" pursuant to subdivision (e) of this rule. ~~become the principal residence or the family farm of at least one eligible transferee within one year of the transfer~~.

(A) If the transfer is of a principal residence, an eligible transferee must file a claim for the homeowners' or disabled veterans exemption at the time of the transfer or ~~within one year of the transfer~~ as specified in subdivision (f) of this rule addressing filing.

(B) If the transfer is of a family farm, an eligible transferee need not file a claim for either the homeowners' or disabled veterans exemption to qualify for the exclusion. If not filed, however, the real property will be treated as if transferred between non-eligible transferees and assessed at full cash value on the date of transfer and the transferee will be required to file a claim for any refund pursuant to subdivision (f) Examples____,____, and____.

(C) A claim for exclusion under this section may be filed for only the principal residence on a family farm if that principal residents meets all the requirements of subdivisions (e)(10)(11) and (f) of this rule. ~~this section.~~

(2) The real property must continue to be the principal residence, (subdivision (e)(10)(11)) or the family farm (subdivision (e)(6)) of an "eligible transferee." (subdivision (e)) As of the date the "eligible property" and "eligible transferee" no longer meet the exclusion requirements, ~~is no longer the principal residence or operated as the family farm of an eligible transferee,~~ the exclusion shall be removed, and the taxable value of the property determined as of the transfer date pursuant to subdivision (d) of this rule. However, if another eligible transferee qualifies for the exclusion ~~within one year~~, as specified in subdivision (f) filing, of this rule the exclusion shall not be removed.

(3) ~~In the case of….~~ (Delete entire sentence as already covered in sentence (2) above, as referencing subdivision (e). That subdivision contains definitions of several different eligible transferees, which includes grandparents. Suggest simplifying this "general" section to remove any duplicity already covered in definitions.)

(4) A claim for the exclusion sought pursuant to this section is to be filed with the county assessor in

accordance with subdivision (f) of this rule. An assessor may request any other information reasonably related to the claim they deem necessary to verify the exclusion.

(5) Nothing in this section limits the number of principal residences or family farms ~~of~~ a transferor ~~that~~ may ~~be~~ transfer~~red~~ to an eligible transferee ~~and excluded~~ from change in ownership. [This is a little unclear; do you mean in series or concurrently? Example: An eligible transferor may transfer successively owned principal residences to eligible transferee or transferees; an "eligible transferor" may transfer more than one operating family farm to eligible transferee(s) either concurrently or in succession, as long as the property and qualifying "eligible transferee(s)" meet the exclusion from change in ownership for intergenerational transfers requirements, pursuant to subdivisions (e) and (f).

(b) Valuation.

Suggest switching the order of item (1) and item (2) and moving the related example below the item describing it. The simplest example should come first and then the more complex one. (I have already switched the two item numbers and moved the applicable examples just below each one.)

(1) Upon transfer, if a transferee meets the requirements for exclusion under this section, the principal residence or qualifying family farm will be assessed at its new taxable value in accordance with subdivision (c) of this rule. rather than its new base year value.

Example 1: Parent transfers 100% interest in their principal residence to Child. On March 1, 2021, the date of transfer, the principal residence has a factored base year value of $250,000 and a full cash value of $900,000. Since this value meets the criteria of subdivision (c), the principal residence's new base year value remains ~~is~~ $900,000. And, if the Child meets the requirements for exclusion under this section, the principal residence will be assessed at its new taxable value, which remains $250,000, in accordance with subdivision (c) of this rule, rather than its new base year valuation which would be $900,000. To simplify readability, suggest presenting the facts and solution step-by-step as line items (mathematically) instead of embedded in a word problem that is not very clear without study – see reworded Examples 4 through 8. Also show (g) as a placeholder, representing the value of "1" in these examples for full understanding.

(2) Upon transfer, the principal residence or qualifying family farm will obtain a new base year valuation equal to its full cash value on the date of transfer, multiplied by the percent ownership of the principal residence or family farm transferred PLUS the factored base year value multiplied by the ~~of the~~ percent ownership of the principal residence or family farm not transferred.

Example 2: Parent transfers 75% interest in their principal residence to Child and retains 25% interest. On March 1, 2021, the date of transfer, the principal residence has a factored base year value of $250,000 and a full cash value of $900,000. The principal residence's new base year value is $675,000 ($900,000 full cash value multiplied by the 75% interest transferred to Child) PLUS $62,500 ($250,000 factored base year value multiplied by the 25% interest retained by Parent) equals $737,500. If Child meets the requirements for exclusion under this section, and the full cash value of $900,000 meets subdivision (c) criteria for $1,000,000, the principal residence will be assessed at its new taxable value which remains $250,000 in accordance with subdivision **(c)** of this rule, rather than its new base year value of $737,500. The Parent's allocated percentage new tax value is $62,500 ($250,000 multiplied by 25% retained = $62,500) and the Child's allocated percentage ownership is $187,500 ($250,000 multiplied by 75% received = $187,500). See suggestion in Example 1 above (e.g., show as line items, step-by-step (mathematically) instead of embedded in a word problem)

(3) When the real property is no longer the principal residence or qualifying family farm of an eligible transferee as required by subdivision (a)(2) of this rule, the new taxable value upon removal of the exclusion shall be determined pursuant to subdivision (d) of this rule. (Please see questions and comments in subdivision (d).)

(c) New Taxable Value. The new taxable value of the principal residence or qualifying family farm shall be the sum of the amounts calculated in paragraphs (1) through (3) and will consider the $1,000,000 adjustment increase from the annual House Price Index for California (C) as well as a final taxable value adjusted by an inflation factor (4). For illustrative purposes of the examples in this rule, items (c)(1)(C) and (c)(1)(4) have been disregarded.

(1) Eligible transferee's new taxable value: the sum of the factored base year of the principal residence or qualifying family farm immediately prior to the date of transfer PLUS any excess amount. This amount will be multiplied by the percent interest of the principal residence or qualifying family farm transferred to eligible transferees.

(A) "Excess amount" means the full cash value of the principal residence or qualifying family farm on the date of transfer minus the excluded amount. If this amount is less than or equal to zero, the excess amount is zero.

(B) "Excluded amount" means the factored base year value of the principal residence or the qualifying family farm immediately prior to the date of transfer PLUS $1,000,000, adjusted pursuant to subdivision (g) of this rule.

Suggest moving (g) here because it is an integral part of developing the new taxable value. The Federal Housing Finance Agency publishes the House Price Index for California on a quarterly basis (the latest being December 31, 2020, Index) and annually. The Index has increased significantly last year for California (11.39%)

Ref: FHFA Quarterly HPI California is ranked 16 on page 16 which shows the 11.39% for year ending December 31, 2020.

Delaying starting the adjustment of the $1,000,000 until 2023 is punitive to the public because the credit is not recognized timely with the re-assessed values due to transfers. If, however, the December 31, 2020 Index percentage value is used now (in 2021), the $1,000,000 exclusion would be significantly increased by the 11.39% to $1,113,900 and this higher amount would more fairly align with the assessed value. In some cases, it would result in a lower "excess amount" (c)(1)(A) which is more applicable to the SF bay area and LA areas. The rural areas do not see the same excessive full case values as these two metropolitan areas, which is what has been illustrated for the most part in all of the Examples.

(C)

~~(g)~~ Adjustment of $1,000,000

(1) On February 16, ~~2023~~, 2021 and every other February 16 thereafter, the one-million-dollar ($1,000,000) amount described in subdivision (c)(1)(B) of this rule shall be increased by the same percent increase in the House Price Index for California for the prior calendar year, as determined by the Federal

Housing Finance Agency. The December 31, 2020 Index percentage increase for California was 11.39%.

(2) The State Board of Equalization shall calculate and publish the adjustments required by this subdivision.

(2) Non-eligible transferee's new taxable value: the full cash value of the principal residence or qualifying family farm on the date of transfer multiplied by the percent interest transferred to non-eligible transferees.

(3) Factored base year value of non-transferred interest: the factored base year value of the principal residence or qualifying family farm immediately prior to the date of transfer multiplied by the percent interest not transferred.

(4) The new taxable value shall be adjusted by an inflation factor, as provided in subdivision (a) of Section 51 of the Revenue and Taxation Code.

The following examples demonstrate the how **the new taxable** is determined:

Example 3: On March 1, 2021, Parents' principal residence has a factored base year value of $250,000. The excluded amount is $1,250,000 ($1,000,000 plus $250,000 factored base year value). Parents transfer 100% interest in their principal residence to Child on March 1, 2021.

To simplify for readability, suggest presenting the solution mathematically instead of embedded in a word problem. Also, show (g) in the excluded amount row as a placeholder with value being "1" for purposes of illustration (see Examples 4 through 8).

Examples 3-1 and 3-2 demonstrate calculating the new taxable value when the full cash value is less than $1,000,000 and when the full cash value is over $1,000,000 ~~alternatives~~ using the facts described in Example 3

Please use the same sentence word order in these examples as doing so allows a reader unfamiliar with the rules to follow them more easily. I have reordered the words in Example 3-2 to match Example 3-1. Better still, instead of explaining as a word problem, show the solution mathematically (see mathematical approach for Examples 4, 5 etc.)

Example 3-1: The principal residence has a full cash value of $900,000 on the date of transfer. Since the full cash value $900,000 is less than the excluded amount of $1,250,000, the excess amount is zero. Therefore, the new taxable value on the date of transfer is the factored base year value of $250,000 which becomes the new base year valuation. This example is the same as Example 1.

Example 3-2: The principal residence has a full cash value of $1,300,000 on the date of transfer. Since the full cash value ~~of the principal residence~~ $1,300,000 is greater than the excluded amount of $1,250,000, ~~there is an~~ the excess amount is $50,000. Therefore, the new taxable value on the date of transfer is the $300,000 ($250,000 factored base year value plus $50,000 excess amount.)

Example 4: On March 1, 2021, date of transfer, Parents' principal residence has a factored base year value of $250,000. ~~The excluded amount is $1,250,000 ($1,000,000 plus $250,000 factored base year value.)~~ Parents transfer 75% interest in their principal residence to Child, an eligible transferee meeting eligibility criteria, and the remaining 25% interest to nephew, a non-eligible transferee~~, on March 1, 2021.~~

Examples 4-1 and 4-2 demonstrate calculating the new taxable value when the full cash value is less than the $1,000,000 and also when the full cash value is greater than $1,000,000 ~~alternatives~~ using the facts described in Example 4.

Example 4-1: ~~The principal residence has a full cash value of $900,000 on the date of transfer. Since $900,000 is less than the $1,250,000 excluded amount, the excess amount is zero. Therefore, the eligible transferee's new taxable value on the date of transfer is $187,500 ($250,000 factored base year value multiplied by the 75 percent interest transferred to the Child.) Since 25 percent of the principal residence is transferred to the nephew, a non-eligible transferee, the non-eligible transferee's new taxable value is $225,000 ($900,000 full cash value multiplied by the 25 percent interest transferred to nephew.) Thus, the new taxable value of the principal residence is $412,500 ($187,500 plus $225,000.)~~

Example 4-1: **New taxable value when full cash value meets $1,000,000 criteria:**

Full cash value on date of transfer	$900,000
Factored base year value on date of transfer	250,000
Excluded amount ($1,000,000(g) + $250,000)	$1,250,000
Excess amount ($900,000 is less than $1,250,000)	-0-
New taxable value apportioned to:	
Eligible transferee ($250,000 x 75%)	$187,500
Non-eligible transferee ($900,000 x 25%)	$225,000
New taxable value of principal residence	$412,500

(And the new base year valuation is_____________please state.)

~~Example 4-2: The principal residence has a full cash value of $1,300,000 on the date of transfer. Since $1,350,000 is greater than the $1,250,000, excluded amount, the excess amount is $50,000. Since 75 percent interest in the principal residence was transferred to child, the eligible transferee's new taxable value is $225,000 ($250,000 factored base year value plus $50,000 excess amount, multiplied by Child's 75 percent interest). Since 25 percent interest in transferee's new taxable value is $325,000 ($1,300,000 full cash value multiplied by the 25 percent interest transferred to nephew.) Therefore, the new taxable value of the principal residence is $550,000 ($225,000 plus $325,000.)~~

Example 4-2: **New taxable value when full cash value exceeds Exclusion:**

Full cash value on date of transfer	$1,300,000

Factored base year value on date of transfer 250,000
Excluded amount ($1,000,000(g) + $250,000) $1,250,000
Excess amount ($1,300,000 is greater than $1,250,000) 50,000
Factored base year value plus excess ($250,000 + $50,000) 300,000
New taxable value apportioned to:

Eligible transferee ($300,000 x 75%) .... $ 225,000
Non-eligible transferee ($1,300,000 x 25%)................ $325,000
New taxable value of principal residence… $550,000

(And the **new base year valuation** is____________________(please state) which is considered in applicable successive intergenerational transfers.)

Example 5: On June 1, 2022, ~~mother's~~ Parent's principal residence has a factored base year value of $320,000. ~~The excluded amount is $1,320,000 ($1,000,000 plus $320,000 factored base year value.) Mother's~~ Parent's principal residence is owned 60 percent interest by ~~Mother~~ Parent and 40 percent interest by Child. ~~Mother~~ Parent transfers her 60 percent interest to Child. Child meets all intergenerational transfer exclusion requirements, and the exclusion is applied. Suggest using "Parent" instead of "Mother" to be inclusive of same-sex couples.

Examples 5-1 and 5-2 demonstrate ~~alternatives~~ the new taxable value when the full cash value is less than the excluded amount and when the full cash value exceeds the full cash value, using the facts described in Example 5. Replace embedded math in word problem reworded as line items below.

~~Example 5-1: The full cash value of the principal residence is $1,100,000 on the date of transfer. Since the excluded amount ($1,320,000) is greater than the full cash value of the principal residence, the excess amount is zero. The eligible transferee's new taxable value on the date of transfer is $192,000 ($320,000 factored base year value multiplied by the 60 percent interest transferred to the Child.) Since 40 percent interest in the principal residence was already owned by the Child and not transferred, the factored base year value of the non-transferred interest is $128,000 ($320,000 factored base year value multiplied by the Child's 40 percent interest not transferred.) Thus, the new taxable value of the principal residence is $320,000 ($192,000 plus $128,000.)~~

Example 5-1: **New taxable value when full cash value is less than Exclusion.**

Full cash value on date of transfer $1,100,000
Factored base year value on date of transfer 320,000
Excluded amount ($1,000,000(g) + $320,000) $1,320,000
Excess amount ($1,100,000 is less than $1,320,000)………….... -0-
New taxable value applicable to:

Eligible transferee ($320,000 x 60%) $192,000
Existing eligible transferee ($320,000 x 40%)................. $128,000
New taxable value of principal residence… $320,000

(The new taxable value remains the factored base year value, and is also the new base year valuation, which is considered in applicable successive intergenerational transfers.)

~~Example 5-2: The full cash value of the principal residence is $1,500,000 on the date of transfer. Since the full cash value of the principal residence ($1,500,000) is greater than the $1,320,000 excluded amount, there is an excess amount of $180,000. Therefore, the eligible~~

~~transferee's new taxable value is $300,000 ($320,000 factored base year value plus $180,000 excess amount, multiplied by the 60 percent interest transferred to the Child.) Since 40 percent interest in the principal residence was already owned by the Child and not transferred, the factored base year value of the non-transferred interest is $128,000 ($320,000 factored base year value multiplied by the Child's 40 percent interest not transferred.) Therefore, the new taxable value of the principal residence is $428,000 ($300,000 plus $128,000.)~~

Example 5-2: **New taxable value when full cash value exceeds Exclusion**:

Full cash value on date of transfer $1,500,000
Factored base year value on date of transfer 320,000
Excluded amount ($1,000,000(g) + $320,000) $1,320,000
Excess amount ($1,500,000 exceeds $1,320,000) $180,000
Factored base year value plus excess ($320,000 + $180,000) 500,000
New taxable value apportioned to:
Eligible transferee ($500,000 x 60%) $300,000
Existing eligible transferee ($320,000 x 40%)................$128,000
New taxable value of principal residence $428,000

(And the **new base year valuation** is___________________(please state) which is considered in applicable successive intergenerational transfers.)

~~Example 6: On June 1, 2022, mother's~~ Parent's ~~principal residence has a factored base year value of $320,000 and a full cash value of $1,500,000. The excluded amount is $1,320,000 ($1,000,000 plus $320,000 factored base year value.) The excess amount is $180,000. Mother's~~ Parent's ~~principal residence is owned 60 percent interest by Mother~~ Parent ~~and 40 percent interest by Child. Mother~~ Parent ~~transfers 30 percent interest to her Child and her remaining 30% interest to her niece. Child meets all intergenerational transfer exclusion requirements, and the exclusion is applied. The eligible transferee's new taxable value is $150,000 ($320,000 factored base year value plus $180,000 excess amount, multiplied by the 30 percent interest transferred to the Child.) Since 30 percent of the principal residence was transferred to niece, a non-eligible transferee, the noneligible transferee's new taxable value is $450,000 ($1,500,000 full cash value multiplied by the 30 percent interest transferred to niece.) Since 40 percent interest in the principal residence was already owned by the qualifying Child and not transferred, the factored base year value of the non-transferred interests is $128,000 ($320,000 factored base year value multiplied by the Child's 40 percent interest not transferred.) Therefore, the new taxable value of the principal residence is $728,000 ($150,000 plus $450,000 plus $128,000.)~~

Instead of using "Mother", suggest using "Parent" to be inclusive of same-sex couples.

Example 6: On June 1, 2022, ~~mother's~~ Parent's principal residence has a factored base year value of $320,000 and a full cash value of $1,500,000. ~~The excluded amount is $1,320,000 ($1,000,000 plus $320,000 factored base year value.) Mother's~~ Parent's principal residence is owned 60 percent interest by ~~Mother~~ Parent and 40 percent interest by qualifying Child. ~~Mother~~ Parent transfers 30 percent interest to her qualifying Child and her remaining 30% interest to her niece, a non-eligible transferee. Child meets all intergenerational transfer exclusion requirements, and the exclusion is applied, as follows:

Full cash value on date of transfer $1,500,000
Factored base year value on date of transfer 320,000
Excluded amount ($1,000,000(g) + $320,000) $1,320,000
Excess amount ($1,500,000 exceeds $1,320,000) $180,000
Factored base year value plus excess ($320,000 + $180,000) 500,000

New taxable value:

Eligible transferee, Child ($500,000 x 30%) $150,000
Existing eligible transferee, Child ($320,000 x 40%)… $128,000
Non-eligible transferee, Niece ($1,500,000 x 30%) $450,000
New taxable value of principal residence… $728,000

(And the **new base year valuation** is____________________(please state) which is considered in applicable successive intergenerational transfers.)

(d) Taxable Value Upon Exclusion Removal.

(1) When the real property is no longer the principal residence or the family farm of an eligible transferee as required by subdivision (a)(2) of this rule, the intergenerational transfer exclusion shall be removed from the property, and its new taxable value upon removal shall be the new base year value calculated pursuant to subdivision (b) of this rule, adjusted by an inflation factor, as provided in subdivision (a) of Section 51 of the Revenue and Taxation Code unclear – doesn't all assessed property values receive the capped 2% inflation factor already? through the year the exclusion is lost. This next sentence is not clear - This amount shall be further adjusted for any other necessary adjustment, (??) including any part of the real property that changes ownership at the time the exclusion is lost, (example?) or that previously changed ownership, (??) or that was newly constructed. Please show example(s), for transparency / clarification addressing all the phrases in the above sentence.

(2) Any portion of the real property not reassessed at the time of removal of the exclusion shall not be subject to supplemental assessment.

Example 7: On March 1, 2021 Parent transferred 100% of their principal residence, 60 percent interest to son and 40 percent interest to daughter. On the date of transfer, the principal residence had a factored base year value of $150,000 and a full cash value of $800,000. Son ~~meets~~ met all intergenerational transfer exclusion requirements, and the exclusion ~~is~~ was applied, as follows:

Full cash value on date of transfer $800,000
Factored base year value on date of transfer 150,000
Excluded amount ($1,000,000(g) + $150,000) $1,150,000
Excess amount ($800,000 is less than $1,150,000)………… -0-
New taxable value apportioned on March 1, 2021 is:

Eligible transferee ($150,000 x 60%)………………. . $ 90,000
Eligible transferee ($150,000 x 40%) .... $ 60,000
New taxable value of principal residence… $150,000

(The existing factored base year value on the date of transfer is the new taxable value and new base year valuation, because at least one qualifying "eligible transferee" occupied the property.)

Question: If the child who occupies the residence files the homeowner's exemption and later moves out, what mechanism will exist to alert the assessor that the other child on title has now moved in? (Both siblings received a portion of the original 100% transfer.)

Three years later (March 1, 2024), son moves out of the principal residence and property no longer qualifies for the exclusion. During the three years the son occupied the property, the factored base year value increased each year by an inflation factor, which is typical for any California assessed property. If the inflation factor were 2 percent each of the three years ~~that property was the son's principal residence~~, the factored base year value of the principal residence at the time son moves out would be:

(2022) $150,000 multiplied by 1.02 = $153,000
(2023) $153,000 multiplied by 1.02 = $156,060
(2024) $156,060 multiplied by 1.02 = $159,181

> Question: What is the point of this example? Also, if the son lives in the residence for ten years and then moves out, doesn't the property already have an annual factored inflation adjustment of 2% cap? Or is the above an additional inflation factor as a penalty for moving out years later?

Examples 7-1 through 7-4 demonstrate the effect of removing the exclusion when no eligible transferee meets the eligibility criteria, determining the new taxable value, the new base year valuation; in situations where the property is rented or sold by one sibling to the other ~~alternatives~~ using the facts described in Example 7

Example 7-1: When son moves out, Son and Daughter rent the property to a third party, ~~As of the date~~ and the principal residence no longer qualifies for the homeowner's exemption, and it no longer qualifies for the intergenerational transfer exclusion. Since 100 percent interest in the property is still retained by ~~former eligible~~ the Son and Daughter (Siblings) who were the original eligible transferees, the taxable value upon removal of the exclusion is the new base year valuation established at the time of the transfer ($800,000 on March 1, 2021) is adjusted by the inflation factor for each of the three years. (same question about the inflation factor stated for Example 7. If the inflation factor was 2 percent for each year, the new base year value upon removal of the exclusion is:

(2022) $800,000 multiplied by 1.02 = $816,000
(2023) $816,000 multiplied by 1.02 = $832,320
(2024) $832,320 multiplied by 1.02 = $848,966

In Example 7-1, Because the siblings continue to own the property but neither occupy it, "removing the exclusion" has negligible impact on the property assessed basis and new base year value. Only the ordinary inflation factor which is applied annually pursuant to (c)(4), the correlating inflation factor increase in the new base year value (to $848,966) occurs.

Question: Isn't the property subjected to the inflation factor every year anyway (c)(4)? If so, it doesn't seem Example 7-1 is needed (Son still owns 60% and Daughter owns 40% = 100%, whether or not either reside in the residence.)

Question: In Example 7, suppose the son doesn't move out, but instead marries 2 years after the transfer from the Parent. After marriage, he then adds his wife on title as community property of his 60% ownership (e.g., deeds to himself and wife as community property, so both now own the existing 60% interest.) The daughter still owns 40% interest, but she does not live there. Please show an example of the new base year value and the factored base year value of the Son and his wife's 60% interest two years after Son receives the transfer from his parent.

Question: In Example 7, suppose the Parent transferred 60% interest of an operating family farm to Son and 40% to Daughter. There is no residence on the family farm. In paragraph (a)(1)(B), an eligible transferee is not required to file a claim for either homeowner's or disabled veterans, nor is a residence on the family farm required. Since both Son and Daughter are eligible transferees, how is it established by the Assessor that this particular family farm is subject to an exclusion and later when is that exclusion removed? What occurs if both Son and Daughter marry and now each have a spouse, they add their new spouses to their share of the farm under community property? How is this situation assessed? Examples?

Example 7-2: Instead of renting the property to a third party, the Parent's Daughter moves in ~~within one year~~ (if daughter has one year to move in after son moves out. If he moves out after living there three years, she would have another year to occupy the property – which is FOUR years after parent's transfer) of son moving out on March 1, 2024 ~~(which is three years after transfer from Parent~~) and meets all intergenerational transfer exclusion requirements. Since the property became the principal residence of another eligible transferee (Daughter) ~~within one year~~ of son moving out, the intergenerational transfer exclusion is not removed. Therefore, the new taxable value, which is the factored base year value of the principal residence remains $159,181

This is not clear. An inflation factor (say 2% is applied to any assessed value in California) which is how the $150,000 as of March 1, 2021 increased to $159,181 three years later. So there doesn't seem to be any real change (removal of exclusion) if the Sister moves in after the Brother moves out, correct? Perhaps an example where son lived in residence for 10 years, then moves out, then daughter moves in?

Please also show an Example looking at just a family farm without a residence – what occurs as far as exclusion removal is concerned?

Example 7-3:. Instead of renting the property to a third party, the Parent's Daughter [moves in within one year of the Parent's Son moving out (which is three years after the transfer from Parent)] Please re-check the time frame – Parent transferred to Son and Daughter on March 1, 2021. Son moves out THREE years later (March 1, 2024.) Daughter still has ONE more year to move in before the intergenerational exclusion would be lifted pursuant to (a)(2). Question: Doesn't the Parent's Daughter still have until March 1, 2025 (which is FOUR years after transfer from Parent to Son and Daughter?) Also, the day Son moves out, the Daughter could not possibly move in the same day. Therefore, the one-year provision for a successive eligible transferee meeting all eligibility criteria is not possible. What if the Son lived in the residence for 8 years? Suggest NOT having this one-year criteria, but instead provide a different set of acceptable criteria for eligible transferees to occupy the residence which can address the many exceptions (a few of which were listed by Patric Barry)

For the rest of this example, the Son and Daughter are referred to as Siblings (e.g., Brother and Sister) because this is a "subsequent" transfer. ~~and meets all intergenerational transfer exclusion requirements.~~ At the time ~~Son~~ Brother moves out, he sells his 60 percent interest to ~~Daughter~~ his Sister when the full cash value of the principal residence was $900,000. ~~Although the property became the principal residence of another eligible transferee (Daughter) within one year, since 60 percent interest in the principal residence was transferred to Daughter by Son, 60 percent of the exclusion is removed and 60 percent interest in the.principal residence~~

~~is reassessed~~, Since there is no exclusion from reassessment for transfers between siblings, the property is reassessed as follows: . ~~Therefore, the new taxable value upon partial removal of the exclusion is $603,672, which is equal to the reassessed amount of $540,000 ($900,000 multiplied by the 60 percent interest sold to Daughter) plus Daughter's retained factored base year value of $63,672 ($159,181 multiplied by Daughter's 40 percent interest.)~~

(Suggest replacing the words "Daughter" and "Son" in the second part of the above example with Brother and Sister, since that is the status of these two individuals when the Brother is selling to his Sister (it's now two siblings who own the property.) It also avoids a potential confusion because a Son is a Parent to his Daughter, which is an eligible transfer.)

Full cash value on date of transfer ………………….……..…	$900,000
Factored base year value on date of transfer …..	159,181
Excluded amount ($1,000,000(g) + $159,181)…	$1,159,181
Excess amount ($900,000 is less than $1,159,181)……………….	-0-
New taxable value	
Eligible transferee, Sister ($159,181 x 40%)……… .	$ 63,672
Ineligible transferee, Son ($900,000 x 60%)	$ 540,000
New taxable value of principal residence.................................	$ 603,672

(And the new base year valuation is now____________(please state) which is considered in applicable successive intergenerational transfers.)

In the next example, Brother sells 60% interest to Sister (who already has 40% interest), but now she rents the whole residence. The prior factored base year value applicable when Parents transferred to Son and Daughter ($159,181) is now replaced by the new taxable value which is the new base year value.

Example 7-4: Original eligible transferees were the Parents' Son and Daughter. Going forward, these two eligible transferees are recognized as "Brother" and "Sister" and this next transfer is between Siblings.

On March 1, 2024, the Brother (Parents' Son) sells his 60 percent interest to his Sister (Parents' Daughter) when the full cash value of the principal residence was $900,000. Sister (Parents' Daughter) rents the property to a third party. Since 60 percent interest in the principal residence was transferred to Sister (Parents' Daughter) by Brother (Parents 'Son,) 60 percent of the principal residence must be reassessed, since there is no exclusion from reassessment for transfers between siblings. The new taxable ~~Therefore, the reassessed amount is $540,000 ($900,000 full cash value multiplied by the 60 percent interest sold to Sister (Parents' Daughter.) Additionally, Sister's (Parents' Daughter's) 40 percent interest no longer qualifies for the exclusion, because she does not live there but owns 100 percent after purchasing her Brother's 60 percent interest. However, Daughter's 40 percent interest is not subject to reassessment at this time, but instead becomes a portion (40 percent) of the new base year value that was established at the time of the original transfer ($900,000), adjusted by the inflation factor for three years, which was previously excluded from reassessment by the intergenerational transfer exclusion. Since the inflation factor~~

~~was 2 percent each of those three years, that amount is $848,966 ($800,000 multiplied by the 2 percent adjustment for 3 years.) $848,966 multiplied by the 40 percent interest in the real property retained by Daughter is equal to $339,586. Therefore, the new base year value upon partial reassessment and then removal of the remaining exclusion of the principal residence is $879,586 ($540,000 plus $339,586.)~~

Full cash value on the ORIGINAL date of transfer (March 1, 2021 from Parents to Son and Daughter)… ………………. $800,000

Factored new base year value, date of transfer (March 1, 2021) adjusted for 2% inflation factor for each of 3 years to March 1, 2025) the date Brother transfers his 60% share to Sister $848,966

Full cash value on date of transfer (March 1, 2024, when Brother sells his 60% interest to his Sister) $900,000

Excluded amount ($1,000,000(g) + $848,966)……… ……….....$1,848,966 (correct?)

Excess amount ($900,000 is less than $1,848,966)…………… -0-

New taxable value (no exclusion available, even though property is still owned by an eligible transferee (Sister), because she rents it 100%.

Eligible transferee, Sister ($900,000 x 60%) $540,000

Retained by eligible transferee, Sister ($848,966 x 40%) (March 1, 2021 original full cash value Parents transferred $339,586

New base year valuation of principal residence $879,586
(The new base year valuation is the new taxable value) (correct?)

In each succeeding year, as long as Sister owns 100% of the rented residence, the 2 percent inflation factor (per (c)(4) of this Rule) will be applied to the March 1, 2024, new base year value, and also to the new taxable value. (correct?)

Suggest identifying the **new base year** value AND the **new taxable value** at the end of each example for clarity, since those values are used going forward in some successive intergenerational transfers.

Need to add an Example to cover cases where some counties allow a "granny" unit on the same city lot as a main residence, but do not allow subdividing. Years ago, the City of Menlo Park (for example) allowed Children owning a ¼ or 1/3-acre lot (or larger) to build a second unit on the property for their aging parents to live in. The second unit might also be attached to the main residence. Either way, the second unit could not exceed 650 sf. (700 sf petition granted.) The unit had to use the same address as the primary residence and could not be rented to third parties, but either the child or parent could live in either the granny unit or main residence. When the State mandated cities find more ways to create affordable housing, the City lifted most of the restrictions (e.g., the unit could now be rented to third parties, it could have its own address and the size might still be restricted, but the lot could not be subdivided.) How would a residence like this be treated under Prop 19 and to avoid conflict with what the City allows? Also suggest, checking various Cities across the State as to what their latest criteria is regarding creating affordable housing.

Example 8: On March 1, 2021, Parents transfers their principal residence 50 percent interest to Son and 30 percent interest to Daughter, keeping the remaining 20 percent interest for themselves. On the date of transfer, the principal residence has a factored base year value of $150,000 and a full cash value of $800,000. Since 80 percent interest in the principal residence was transferred, the principal residence's new base year ~~value~~ valuation is ~~as~~ determined ~~in~~ pursuant to subdivision (b), and ~~is $670,000 ($800,000 full cash value multiplied by 80 percent interest transferred to Son and Daughter plus $150,000 factored base year value multiplied by the 20 percent interest retained by the parent.)~~ since the Son meets all intergenerational transfer exclusion requirements~~, and~~ the exclusion is applied. The new taxable value pursuant to (c) of this Rule ~~at the time the exclusion is first applied,~~ is: ~~$150,000.~~

Full cash value on date of transfer (March 1, 2021) $800,000
(Parents transfer 50 percent to eligible transferee Son who meets all Intergenerational requirements and 30% to Daughter)

Factored base year value on date of transfer 150,000

Excluded amount ($1,000,000(g) + $150,000) $1,150,000

Excess amount ($800,000 is less than $1,150,000)……..……… -0-

New taxable value:

Eligible transferee, Son ($800,000 x 50%) .... $ 400,000
Eligible transferee, Daughter ($800,000 x 30%) $240,000
Retained by Parents ($150,000 x 20%)……………….. $ 30,000
New taxable value of principal residence…................... $670,000

(The new taxable value is the new base year value.)

The Example-8 is a word problem that contains multiple embedded math computations. Suggest splitting this Example 8 into two problems, and illustrating the second half of the problem step-by-step (mathematical) to illustrate the subsequent transfer more clearly, as follows:

Example 8-1: Three years later, Son moves out of the principal residence and sells his 50 percent interest to his Sister when the full cash value of the principal residence is $900,000. If the inflation factor was 2 percent in each of those three years, the factored base year value of the principal residence becomes $159,181 ($150,000 multiplied by 2 percent adjustment for 3 years.) ~~At the time Son moves out, he sells his 50% interest to Daughter his Sister when the full cash value of the principal residence was $900,000. Daughter~~ His Sister does not use the property as a principal residence and thus, ~~does not qualify for the~~ the intergenerational exclusion is removed. Also, an exclusion does not apply for transfers between siblings. The new taxable value of the property as a result of the 50 percent transfer from Brother to Sister is determined as follows: ~~Therefore, the intergenerational exclusion is removed in its entirety. Since 50 percent of the real property was transferred from Son to Daughter, a transfer between siblings for which no exclusion applies, 50 percent of the real property is reassessed. The amount is $450,000~~

~~($900,000 full cash value multiplied by the 50 percent interest sold to Daughter.) Additionally, the $670,000 new base year value established at the time of the transfer multiplied by the 2 percent adjustment for three years is equal to $711,009. This amount must be multiplied by the percent of the real property retained by former eligible transferees (Daughter's 30 percent), which is equal to $213,303. Finally, the portion of the factored base year value of Parent's retained 20 percent interest is $31,836 ($159,181 multiplied by 20 percent.) Therefore, the new taxable value upon removal of the exclusion of the principal residence is $695,139 ($213,303 plus $450,000 plus $31,836.)~~

Full cash value on date of transfer (March 1, 2024) $900,000

Factored base year value on date of transfer (March 1, 2021)
($150,000 increased by 2% inflation factor for each of
3 years for the 20% retained by Parents) $159,181

Factored base year value on date of transfer, (March 1, 2021)
$670,000 increased by 2% inflation factor for each
of 3 years for the 80% transferred now becomes the new base
year value??) $711,009

Excluded amount ($1,000,000(g) + $711,009)… $1,711,009

Excess amount ($900,000 is less than $1,711,009)……..……… -0-
New taxable value:
Brother's sale to Sister ($900,000 x 50%) $450,000
Prior transfer retained by Sister ($711,009 x 30%)...........$213,303
Retained by Parents ($159,181 x 20%)….………………. $ 31,836
New taxable value of principal residence… $695,139

(The new taxable value is the new base year valuation.)

(e) Definitions. The following definitions govern the construction of words or phrases used in this section:

(1) "Children" or "Child" (includes all ages) means any of the following:

(A) Any child born of the parent or parents, whether legitimate or illegitimate, and while parent(s) are alive or born posthumously (using preserved genetic material) except a child, as defined in subparagraph (D), who has been adopted by another person or persons. Suggest reviewing the law covering surrogates (are there any instances where a child can legally have three parents??)

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph: ~~the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.~~

1) the stepparent-stepchild relationship shall be deemed to exist as long as the stepparent and parent have not divorced, or, if the parent is deceased, until the stepparent has remarried, and

2) the stepparent-stepchild relationship shall be deemed to exist as long as the parent's Child and his or her spouse have not divorced, or if the parent's Child is deceased, until the daughter-in-law or son-in-law have remarried.

(C) Any son-in-law or daughter-in-law of the parents or stepparents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist: ~~until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law~~

1) as long as the parent's child and daughter-in-law or son-in-law have not divorced, or, if the relationship is terminated by death, or until the remarriage of the son-in-law or daughter-in-law.

(D) Any child adopted pursuant to statute, which may include ~~by~~ the parent(s), ~~or~~ stepparent(s), or grandparent(s) or other approved and recognized individual by the Court, ~~pursuant to statute~~, other than an individual adopted after reaching 18 years of age. Suggest rewording this further to address that not only an existing parent adopting the stepchild (for example) but children adopted out of foster care where neither party adopting is the natural parent of the child, same-sex couples, also situations where a child is adopted by the grandparent(s) such as occurs when the natural parent is either incarcerated, dies or abandons the child, etc.

(2) "Disabled veterans' exemption" means the exemption authorized by subdivision (a) of section 4 of article XIII of the California Constitution.

- (3) "Eligible transferee" means a ~~parent, child, grandparent, or grandchild of an eligible transferor~~. Any of the following recipients of eligible property meet the exclusion from change in ownership intergenerational transfer:

a) Transfers from child(ren) to their parent(s) or from parents to their child(ren). Question: (considering (e)(1)(A) Parents' divorce and now have two residences. Can each parent their separate residence to one of their children? If one parent remarries, can that parent and the new spouse transfer their residence to one of the parent's children? Or to the stepparent's child?

b) Transfers from a stepparent to their stepchild(ren), or transfers from a stepchild(ren) to their stepparent, pursuant to criteria of (e)(1)(B).

c) Transfers from a parent or parents to their daughter-in-law or son-in-law or from the son-in-law or daughter-in-law to the parent or parents, pursuant to criteria of (e)(1)(C).

d) Transfers between grandparents and grandchild(ren) are allowed under the following circumstances:

   a. When both the parents of the grandchild(ren) are deceased

Question: A parent with a child from a prior marriage remarries, and the new spouse does not adopt the parent's child (new spouse is a stepparent.) The parent dies. May the child (the grandchild) transfer his/her grandparent(s)? And may the grandparent transfer his/her residence to the grandchild? (It seems so because the stepparent is not the legal guardian of a minor child, or the stepparent might remarry.) Please clarify grandparent to grandchild.

Question: Please clarify the circumstances where a grandchild(ren) may transfer to the grandparent(s) – one situation might be where the grandchild's parents are deceased but the grandchild is a minor, so another individual is the authorized guardian of the minor grandchild's finances (minor not allowed to own property directly).

(4) "Eligible transferor" means the person who transfers the property to a "eligible" recipient (defined in (3.a) through (3.d)).

(5) "Factored base year value" means the amount determined pursuant to subdivision (f) of section 110.1 of the Revenue and Taxation Code. An inflation factor shall be determined as provided in subdivision (a) of Section 51, which shall be a percentage change in the cost of living, as defined in Section 2212.

(6) "Family farm" means any real property which is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is defined in section 51201 of the Government Code as that section read on January 1, 2020. As of January 1, 2020, Government Code section 51201 defined "agricultural commodity" as follows: "Agricultural commodity" means any and all plant and animal products produced in this state for commercial purposes, including, but not limited to, plant products used for producing biofuels, and industrial hemp cultivated in accordance with Division 24 (commencing with Section 81000) of the Food and Agricultural Code.

Suggest further clarifications for an "eligible" "family farm" such as:

a) it might be land that is contiguous with the principal residence – suppose an owner has 10 acres. (Considering paragraph 10 below), what portion of the 10 acres is allocated as principal residence, and what portion is the "family farm"? Or what minimum size for residence vs. "family farm" is defined, or is this already defined elsewhere in the assessor laws?
b) Can a "family farm" consist of two or more separate parcels located in different counties?
c) How many "family farms" may be transferred at one time?
d) The family farm can only be in the name of a trust or an individual (not an LLC or other

legal entity?)

e) How would subdividing a large "family farm" parcel into two or more separate parcels be treated? A parent subdivides the large farm into multiple parcels while alive; upon death each child receives a separate "family farm", perhaps none of which contain the principal residence?

f) Can a child receive both a principal residence and a separate "family farm" elsewhere?

g) How are family farm distributions as part of settling an estate? Example: A large family farm is in name of trust. Trustor specifies that upon his death, farm is to be divided into equal shares and given to multiple children. Implementation takes two years to complete. One share includes the Trustor-Decedent's principal residence. How are these transfers assessed? Examples?

(7) "Full cash value" means full cash value, as defined in section 2 of article XIII A of the California Constitution and section 110.1 of the Revenue and Taxation Code, with any adjustments authorized by those sections, and ~~the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.~~

For purposes of subdivision (a) of Section 2 of Article XIII A, "full cash value" means Fair Market Value, as determined and further delineated per Section 110 of the Revenue and Taxation Code

Suggest moving the definition of "grandchild" or "grandchildren" (8) right after "Children" above so it is already defined when the next definitions of "eligible transferee" and "eligible transferor" appear.

(8) "Grandchild" or "grandchildren" means any child or children of the child or children of the grandparent or grandparents. (see additional wording for (e)(1)(A)

(9) "Homeowners' exemption" means the exemption provided by subdivision (k) of section 3 of article XIII of the California Constitution.

(10) "Principal residence" means a dwelling that is eligible for a homeowners' exemption or a disabled veterans' exemption as a result of the transferor's or transferee's ownership and occupation of the dwelling. "Principal residence" includes that portion of the land underlying the residence that consists of an area of reasonable size that is used as a site for the residence. Suggest with the addition of a "family farm", this statement needs to be redefined (see comments under paragraph 6 above.)

(11) "Real property" means real property as defined in section 104 of the Revenue and Taxation Code. Real property does not include any interest in a legal entity, except as provided in this paragraph. For purposes of this section, real property includes any of the following: This paragraph is not clear. Section 104 of the Revenue and Taxation Code states, "real estate" or "real property" includes: (a) The possession of, claim to, ownership of, or right to the possession of land. (b) All mines, minerals, and quarries in the land, all standing timber whether or not belonging to the owner of the land, and all rights

and privileges appertaining thereto and (c) Improvements." The principal residence and "family farm" fall under Section 104.

(A) An interest in a unit or lot within a cooperative housing corporation, as defined in subdivision (i) of section 61 of the Revenue and Taxation Code.

(B) A pro rata ownership interest in a mobilehome park, as defined in subdivision (b) of section 62.1 of the Revenue and Taxation Code.

(12) A pro rata ownership in a floating home marina, as defined in subdivision (c) of section 62.5 of the Revenue and Taxation Code.ansfer" includes, and is not limited to, any transfer of the present beneficial ownership of property through the medium of an inter vivos or testamentary trust.

(13) "Transfer between parents and their children" means either a transfer from a parent or parents to their child or children or a transfer from a child or children to their parent or parents. Since there are several sub-parts to this (parents/children, grandparents/grandchildren, stepparents/step-grandparents plus criteria for qualifying), suggest after defining "Children" above, add separate paragraph definitions for "Parents" and "Stepparents" and "Grandparents" and "Step-grandparents." Along with specific eligibility criteria. Then, paragraph (13) and (14) would not be necessary as they are addressed by the definitions for "eligible transferee" and "eligible transferor."

(14) ~~"Transfer between grandparents and their grandchildren" means a transfer from a grandparent or grandparents to their grandchild or grandchildren or a transfer from a grandchild or grandchildren to their grandparent or grandparents.~~
Suggest keeping the topic of grandchildren-grandparents together in one place – i.e., delete this paragraph and address in (e)(3)(d)

(f) Filing.

Or

(1) To request the intergenerational transfer exclusion, an eligible transferor(s)/ ~~and~~ (please check for consistency throughout document – some places says "or", other places say "and", and other places say "either" and if multiple transferees, then "any of".) eligible transferee(s) shall file ~~a claim form, designed by~~ the State Board of Equalization claimant form with the county assessor in the county in which the principal residence is located. If this section assumes that the principal residence includes a contiguous "family farm", then (1) should read, "…residence and contiguous "family farm" is…" If one or more parcels comprising the "family farm" are each separately located and not attached to the residence, then suggest a separate filing instruction be provided that just addresses the "family farms" – also, because elsewhere this rule states "no homeowner's claim needs to be filed" for the "family farm" yet how will this property be tracked intergenerationally?

(A) The claim form shall include a written certification signed and made under penalty of perjury, attesting to ~~of~~ the following:

If the previous suggested changes are made, it is not necessary to further restate the words "parent, child, etc. as they will all be addressed under the prior definitions. Also, earlier was stated that a Trustee of a trust (for example) can complete the form. Suggest the following then:

That the claim form is being completed by an "eligible transferee" or "eligible transferor" pursuant to (

(i) ~~that the /transferee is a [parent, child, grandparent, or grandchild] of the transferorand that the transferor is their parent, child, grandparent, or grandchild.or stepparent, stepchild, grandparents, grandchild.~~

(ii) in the case of a grandparent-grandchild transfer, that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the transfer. "step-grandparents?" Or grandparents, if serving as guardian of minor grandchild?

(iii) that the transferor will not file a claim to transfer the base year value of the property under section 2.1, subdivision (b) of article XIII A of the California Constitution. This clause is not clear – provide example or better explanation.

(iv) that the real property is the transferor's principal residence ~~or family farm; and~~ and/or is the transferor's family farm that is eligible for exclusion from change in ownership intergenerational transfers. Suggest addressing the principal residence and the family farm in separate clauses, considering they each have different criteria (e.g., must live in the residence, farm does not have to have a residence but could, if no residence on the farm, it can't be "occupied" etc.)

(v) that the real property (i) is or will become ~~within one year~~ the transferee's principal residence ~~or family farm~~, (typical where "family farm" is crossed out – suggest separating these two topics as they have different criteria as discussed elsewhere) (ii) the property will continue to be the principal residence ~~or the family farm~~ of an eligible transferee, and (iii) the eligible transferee (again, recheck who is responsible for filing the claim form, some places say transferee "or", other places the transferor "and" and other places say "either" transferor or transferee) will notify the assessor if the real property is no longer the principal residence ~~or the family farm~~ of an eligible transferee. This doesn't seem consistent with paragraph (2) below [says claim may be filed within 3 years…] Why 3 years? And in an earlier example where the son moved out after 3 years, the daughter moving in is supposed to have a year to move in after he moves out, but can't meet that criteria because he used up the 3 years. Please make provisions for the following, some of which cannot be "undone" as already existing in an irrevocable trust.

Example 1) **EXISTING IRREVOCABLE TRUST PROVISIONS.** (The following is one example; an estate attorney could advise of others.)

Parent has already (for example, 5 years ago) transferred residence to their child(ren) through an irrevocable trust. This trust is referred to as a QPRT - a qualified personal residence trust (QPRT). The Parent ("P") has retained the right to rent-free personal use of the residence for 12 years (the "retention period"). At the expiration of the 12-year retention period, the property of the trust will pass to P's children. (If P dies before the expiration of the retention period, the property will revert to P's estate.) To continue to live in the residence after the end of the retention period, P will need to pay his children rent pursuant to a bona fide, arm's length lease. P can make those payments income-tax-free to P's children, by arranging for the residence to be held in a trust (f/b/o P's children) that for income tax purposes (but not for estate tax purposes). The proposed one-year transfer period is not possible due to this existing legal arrangement prevents it. And the children are already bequeathed the residence, only they are unable to occupy it legally. Provide a "grandfather" provision in lieu of a one-year move-in and occupancy criteria which grants one year AFTER the terms of the QPRT trust expiration.

Example 2) **MINOR CHILD BECOMES ORPHAN.** (One possible case, but there are others.)

The parents of a minor child (age 10) both die in a tragic car accident. Terms of the deceased parents Will and Trust specify the residence (or family farm) is to be inherited by the child. However, a legal guardian must be appointed (either by the Court or as arranged through the deceased parents estate documents). The minor was living in his parents residence at the time of their death. Depending on what is in the best interest of the minor, and terms of the trust, either a Trustee retains title to the residence until the minor reaches the minimum age to receive his/her inheritance and the minor is relocated to another family member's residence (aunt or grandparent), or one of the other family member's moves into the minor's residence to continue caring for him/her. The proposed one-year transfer period is not possible due to this untimely expected legal arrangement which prevents it. And the child is already bequeathed the residence, only is unable to occupy it legally. This example should not be treated as a non-eligible transfer resulting in a full cash value assessed tax. Provide an "exceptions" provision in lieu of a one-year move-in and continuous occupancy criteria.

Example 3) **WILL/TRUST CONTEST EXTENDS ESTATE SETTLEMENT.**

During settlement of a Parent decedent's estate, a Will contest ensues which prolongs the estate settlement for four years. During this time, the Trustee of the decedent's estate holds title and is responsible for managing the family residence which requires the residence to be (temporarily) rented so insurance is maintained, etc. Upon settlement of the estate, the residence can be transferred to the beneficiary (the Parent's Child). The effective date of inheritance is, however, the date the parent died (four years earlier.) The proposed one-year transfer period is not possible due to this Will (or Trust) contest which prevents it. The child is already bequeathed the residence, only is unable to occupy it. Provide an "exceptions" provision in lieu of the one-year move-in criteria.

Example 4) **CHAIN REACTION PREVENTS IMPLEMENTATION.**

An very elderly Parent (88) transfers their residence to elderly (68) Child because elderly Parent must move into a long-term care nursing home. Child (68) is unable to move to elderly Parent's residence until he can vacate his own residence and transfer his existing homeowner's exemption to his new residence (received from Parent). Elderly Child needs time to (a) fix up and sell his existing residence and (b) repair or remodel his elderly parent's existing residence. It is a buyer's market. Alternatively, the Child (68) decides to transfer his residence to his Child (40), however, this also cannot occur within the one-year period because his Child may not be able to meet the occupancy criteria due to being on an out-of-state job assignment (chain reaction event). The elderly parents transfer their residence anyway because they need to move into long-term care. The proposed one-year transfer period is not possible due to events beyond the Child's control. Treating this transfer from a very aging Parent to an aging Child saying the Child does not meet the intergenerational transfer exclusion would cause the property to be reassessed at full cash value, creating a hardship on the aging Child as well as his adult Child, who all desire to comply, only are unable to because of conditions beyond their control. Provide an "exceptions" provision in lieu of the one-year move-in and continuous occupancy criteria.

Example 5) **CHILD ON MILITARY ASSIGNMENT OVERSEAS.**

A Child receives a residence from an ailing parent, but is unable to move into the residence within the one-year requirement due to being overseas on a military assignment (or is able to move in initially but then is sent overseas on a military assignment, thus being unable to meet the "continuous" occupancy criteria.) The Child will return to the residence as soon as his military assignment permits it. His younger sister can live in the residence and keep it safe for his return from service, but she is not on title nor eligible for the exclusion – her brother is. The Child serving our country should not be penalized for being unable to occupy within a one-year period from transfer and then continuously thereafter to avoid having a full cash value assessment applied to the residence. Provide an "exceptance" provision in lieu of both the one-year move-in criteria and continuous occupancy criteria.

Example 6) **LOW-INCOME FAMILY ENDURS HARDSHIP.** A low-income parent (52) with several children has owned the family residence for over thirty years in an area that saw minimal appreciation until recent times, due to continual population growth and shortage of housing. The parent transfers the home to his children, but only one is allowed to claim the homeowner's exemption and exclusion. That child moves in upon transfer from the parent. Several months later the Child receives a new assessment which results in being unable to afford the new property tax. The Child is forced to rent the house while looking for another place to live. If the home can be rented however, the family can have a means of income to afford the taxes as well as time to find another affordable place to live. The Child is unable to continually occupy the residence due to the high taxes and be forced homeless. Provide an "exceptions" provision in lieu of the continuous occupancy criteria based on the circumstances and for a reasonable period of time for Child to address.

Example 7) **FAMILY FARM SUFFERS AGRICULTURAL FAILURE.** Parents transfer family farm to children. The farm is a going concern growing grains and raising grazing animals. Unexpected weather conditions render the field fallow, or the animals become sick and die. As a result, the family farm does not continue to operate continually, as required. The owners (children) suffer financial hardship and are unable to restore the family farm to operating conditions within the one-year period nor maintain it operational continuously. The exclusion should not be removed under these circumstances within one-year, and since the successful operation of a farm depends on many factors, not only the weather, the farm should not be reassessed at full cash value forcing the children to sell their parents legacy. Provide a list of "exceptions" provisions to address the various issues that can prevent a family farm from being continuously operated as intended.

There may be other Examples.

(B) The ~~claim form may be filed, and the certification made by the transferor's or eligible transferee's legal representative, the trustee of the transferor's or eligible transferee's trust, or the executor or administrator of the transferor's or eligible transferee's estate~~. The certification and homeowner's claim form may be filed by any of the following:

(i) The legal representative of the eligible transferor **or** eligible transferee;
(ii) The Trustee of the trust of the eligible transferor **or** transferee;
(iii) The Executor or Administrator of the estate of the eligible transferor **or** transferee;
(iv) If the transfer involves multiple eligible transferors or eligible transferees, then by **any one** of the eligible transferors or eligible transferees.
(v) The legal guardian of a minor whose parents are either deceased, incarcerated, or have abandoned the minor;

(C) ~~If there are multiple transferees, the claim form may be filed and the certification made by any one of the eligible transferees~~. Check wording of "any" one of…with same criteria listed elsewhere which says "or" transferor… vs. elsewhere it says "both"…

(D) The ~~claimant shall provide substantiation of any matter certified pursuant to this paragraph at the request of the county assessor~~. The claim shall be supported by substantial evidence as may be requested by the County Assessor. (If a family farm is located in two counties (maybe on the county line, or maybe it's just two separate parcels, each in different counties), then add: If the family farm is located in two or more Counties, then the substantial evidence is to be provided to each County Assessor, who will coordinate their review efforts.

(Re-check the paragraph numbering where is the referenced #3?)

(2) Except as provided in paragraph (3),/ any claim under this section shall be filed within three years after the date of the transfer of real property for which the claim is filed, (why three years?) or prior to transfer of the real property to a third party, whichever is earlier. However, a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the transfer of real property for which the claim is filed. The County Assessor may waive or grant exceptions to these time frames for due cause (e.g., exceptions granted for Examples 1-7 above.)

The either transferor or transferee become incapacitated, the Trustee of the trust (or Probate processing) would need to resolve. The property may need to be sold before the estate is settled or something like this could hold up settling the estate.

Example 9: Parent transfers their principal residence to Child on March 1, 2021. The property is also the principal residence of Child. **Child files a claim for the homeowners' exemption and the intergenerational transfer exclusion claim form at the time of the transfe**r. The filing requirements have been satisfied and, as long as Child meets all other eligibility requirements, the New Taxable Value as of March 1, 2021, will be calculated pursuant to subdivision (c) of this section.

Example 10: Parent transfers their principal residence to Child on March 1, 2021. The property is also the principal residence of Child. Child **does not file a claim for the homeowners' exemption at the time of transfer**, but files the homeowners' exemption and intergenerational transfer exclusion claim forms a year later, on February 1, 2022. A change in ownership will be processed as of March 1, 2021, and a new base year value established as of that date. Assuming Child meets all other eligibility requirements, a New Taxable Value as calculated in subdivision (c) of this section **will be restored** as of March 1, 2021,and Child shall be entitled to a refund of property taxes previously paid, or if taxes have not been paid, the Child will be entitled to ~~a~~ cancellation of taxes previously owed between March 1, 2021 and January 31, 2022, and any penalties or liens for non-payment of taxes will be waived. Child must file a claim for refund to receive a refund. Why is the delay in filing the claim acceptable? In reality, the Child likely filed his personal income tax return, taking credit for taxes paid. If some year later, when the Child files the homeowner’s exemption (which is the document that establishes the Child is occupying the principal residence) then the Child would technically be responsible for filing amended income tax returns (not the County’s problem, but it does permit the opportunity for the Child to not refile past tax returns – if property taxes are in fact refunded.) Ditto for the below examples which allow refund of taxes paid or cancellation of taxes owed.)

Example 11: Parent transfers their principal residence to Child on March 1, 2021. The property is also the principal residence of Child. Child **does file a claim for the homeowners' exemption at the time of the transfer**. Child still owns the property as their principal residence two years later, on March 1, 2023, and files the intergenerational transfer exclusion claim form on that date. (It seems there's a lot of extra paperwork required by allowing delays in filing the intergenerational claim. Wouldn't it be more economical and less time consuming if the intergenerational claim form and homeowner's exemptions are filed concurrently, when due?) A change in ownership will be processed as of March 1, 2021, and a new base year value established as of that date. Assuming Child meets all other eligibility requirements, a New Taxable Value as calculated in subdivision (c) of this section **will be restored** as of March 1, 2021, and Child shall be entitled to a refund of property taxes previously paid, or if taxes have not been paid, the Child will be entitled to ~~a~~ cancellation of taxes previously owed, including penalties or interest will be waived, between March 1, 2021 and February 28, 2023. Child must file a claim for refund to receive a refund. Question: In this example and others, if the child has already sold the property to a new owner, who gets the refund? The child may have moved out of state. If the child has died in the interval, something like these examples could hold up settling the estate as well, since any refund would be due the decedent's estate. This would also affect the estate and final income tax returns. Suggest having an estate attorney review these provisions or consider requiring the intergenerational claim form to be filed at the same time as the homeowner's exemption (for a principal residence) or requiring the exclusion claim be filed at the time a "family farm" is transferred.

Example 12: Parent transfers their principal residence to Child on March 1, 2021. The property is also the principal residence of Child. Child **files a claim for the homeowners' exemption at the time of the transfer but does not file**. ~~Child does not file an~~ **intergenerational transfer exclusion form**~~. and~~ Chile receives a notice of supplemental assessment four years later on April 1, 2025 why does it take the assessor four years to file a notice of supplemental assessment?). As long as Child files the exclusion claim form within six months of April 1, 2025, and meets all other eligibility requirements, the principal residence will be assessed at its New Taxable Value as of March 1, 2021, calculated pursuant to subdivision (c) of this section. Child shall be entitled to a refund of property taxes previously paid, (why would Child get a refund – has he paid taxes based on full cash value on March 1, 2021?) or if taxes have not been paid, the Child will be entitled to ~~a~~ cancellation of taxes previously owed between March 1, 2021 and March 31, 2025. (This example has several embedded situations – suggest separating the different cases and use step-by-step (mathematical) illustrations. Child must file a claim for refund to receive a refund. Wouldn't this also be a bookkeeping quagmire if during the ensuing four years the child has transferred his ownership to his child who subsequently sells the property?

(3) If the principal residence has not been transferred to a third party, a claim for exclusion filed subsequent to the expiration of the filing periods set forth in paragraph (2) shall be considered by the assessor; however,

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the value of the real property upon which property taxes shall be based in the assessment year described in subparagraph

(A) is the factored base year value calculated with full cash value determined as the date the property first qualified for the intergenerational transfer exclusion. If a maximum of three years applies before the claim is filed, is the full cash value at the time of transfer used? Suggest presenting the above by step-by-step (mathematical) example(s).

Example 13: Parent transfers their principal residence to Child on March 1, 2021. The property is also the principal residence of Child. Child **files a claim for the homeowners' exemption at the time of the transfe**r. Child receives a notice of supplemental assessment one year later on April 1, 2022, and **files the exclusion claim** form another year afterwards ~~one year later~~, on April 1, 2023. Assuming Child meets all other eligibility requirements, the principal residence will be assessed at its New Taxable Value on March 1, 2021, as calculated pursuant to subdivision (c) of this rule, adjusted for inflation factor increases pursuant to subdivision (a) of section 51 of the Revenue and Taxation Code. If the child was married at the time of transfer, but subsequently divorces, please clarify that the "…all other eligibility requirements…" means as of the date of transfer.

Also, in all of the preceding cases, is there an appeals process if the child and the assessor are not in agreement? What is that process and can it be addressed here (or is it already covered in some other provisions and if so, please reference the applicable rule or law.)

(4) For purposes of this subdivision, a transfer of real property to ~~a parent or child of the~~ from an "eligible transferor" to an "eligible transferee" shall not be considered a transfer to a third party. (Using these previous definitions makes this rule applicable to all the other transferors such as grandparents, stepparents, etc.) A "third party" is an individual who does not qualify as an "eligible transferee" or "eligible transferor."

(g) Has been relocated to subdivision (c), new taxable value.