ALTERNATIVE LANGUAGE
PROPOSED ADOPTION OF PROPERTY TAX RULE 462.520

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
1	(a)		Hon. Antonio Vazquez, Chairman, BOE	**(a) General.** Beginning on and after February 16, 2021, "change in ownership" shall include the transfer of <u>any interest in</u> real property <u>between parents and their children or between grandparents and their grandchildren under Revenue & Taxation Code section 60 and other applicable RTC sections and Property Tax Rules, unless it</u> ~~which~~ is the <u>transfer of an interest in a</u> principal residence or the family farm of an eligible transferor <u>to an eligible transferee</u> ~~in the case of transfers between parents and their children or between grandparents and their grandchildren~~ meeting the following conditions <u>for exclusion</u>: **Reasons for proposal in (a):** The revised language in (a) above enables the reader to understand that ALL types of property transfers (including those formerly permitted under Prop 58) are now a "change in ownership," unless they meet these specific requirements listed. Further, the revised language is consistent with the pattern/model for most other Property Tax Rules on change in ownership in the Board's section 462 series.	Not accepted. Rule is defining what is NOT a change in ownership, rather than what IS a change in ownership. Other rules cited as similar define changes in ownership, not exclusions to changes in ownership.
2	(a)		Sandra Lee	See suggested rewrite posted on project page.	Not accepted. The submitted rewrite introduces new terms and adds complexity that is not appropriate for a general statement of the exclusion.
3	(a)(2)		Hon. Tom Bordonaro, San Luis Obispo County Assessor	We ask you consider including a phrase to the final sentence to clarify the one year is following the initial transferee moving out of the property, not one year from the initial transfer. ***BOE Rewrite:*** (2) The real property must continue to be the principal residence or the family farm of an eligible transferee. As of the date the property is no longer the principal residence or the family farm of an eligible transferee, the exclusion shall be removed and the taxable value of the property shall be determined pursuant to subdivision (d) of this rule. However, if another eligible transferee qualifies for the exclusion within one year <u>of the property no longer qualifying as the principal residence of the previous eligible transferee</u>, the exclusion shall not be removed.	Accepted

ALTERNATIVE LANGUAGE: PROPOSED ADOPTION OF PROPERTY TAX RULE 462.520

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
4	(a)(2)		Hon. Christina Wynn, Sacramento County Assessor	The last sentence in (a)(2) on Page 3 states, "If another eligible transferee qualifies for the exclusion within one year, the exclusion shall not be removed." Please clarify that all eligible transferees must be listed on the original Claim for Reassessment Exclusion Form and no additional claim form filings are required for another eligible transferee to satisfy the requirement that the property is continuing as the family home.	The rule lists *certification* requirements in subdivision (f). The form itself asks for all eligible transferees. However, when a subsequent eligible transferee replaces the original eligible transferee as the "primary resident," a new claim form must be filed.
5	(a)(3)		Sandra Lee	Delete entire sentence and add to definitions in subdivision (e). ~~In the case of transfers between grandparents and grandchildren, all of the parents of those grandchildren, who qualify as children of the grandparents, are deceased as of the date of the transfer, except that a son-in-law or daughter-in-law of the grandparent who is a stepparent to the grandchild need not be deceased on the date of the transfer.~~	Not accepted. The limitation of the grandparent/grandchild exclusion is an important point that should be made up front.
6	(b)		Hon. Antonio Vazquez, Chairman, BOE	**(b) Valuation**. The assessed value of the principal residence or family farm shall meet the value test that compares the fair market value of the property to the sum of the transferor's factored base year value, plus $1,000,000. If that sum is more, then the fair market value beyond this sum is added to the transferor's factored base year value to determine the transferee's new taxable value If the sum is less, then no adjustment is needed. (1) Definitions. The following definitions govern the construction of the words or phrases used in this section: (A)."New Taxable Value" means the Factored Base Year Value of the property immediately before the transfer, plus any "Excess Amount." (B) "Factored Base Year Value" means the Adjusted Base Year Value as determined under Revenue and Taxation Code section 110.1, with the permitted adjustments. (C) "New Base Year Value" means the property's Full Cash Value or Fair Market Value on the date of transfer multiplied by the ownership percentage in the property transferred plus the Factored Base Year Value of the ownership percentage not transferred. **Reasons for proposal in (b):** The proposed language in (b) above is intended to provide the reader with a general summary of the basic "value test" that the assessor will be using for the exclusion. The definitions in (b)(1) are proposed in order to clarify the meanings of the new value language used in Prop 19 and now in this Rule. This is consistent with the pattern/model for Rule 462.500 where a separate test and new terms were added by a constitutional amendment and statute.	Not accepted. Disrupts the flow of the rule. The base year value must first be determined so that a value is set in case the exclusion is later removed. The rule as written is consistent with Rule 462.500 in that the definition of what is not a change in ownership is in subdivision (a). Subdivisions (b) – (d) deal with valuation. Definitions are part of subdivision (e).

ALTERNATIVE LANGUAGE: PROPOSED ADOPTION OF PROPERTY TAX RULE 462.520

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
7	(b)		Sandra Lee	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. See suggested rewrite posted on project page.	Not accepted. Rearrangement is contrary to the assessment process.
8	(b)(3)		Holly Lung, San Francisco City and County	How does Assessor's office know the transferee is no longer eligible?	Revenue and Taxation Code section 531.6 requires a homeowner to notify the assessor when the property is no longer eligible for exemption.
9	(c)		Hon. Antonio Vazquez, Chairman, BOE	**(c) New Taxable Value**. The New Taxable Value of the principal residence or family farm shall be the sum of the amounts calculated in paragraphs (1) through (3): Example 3: Calculating the Excess Amount. On March 1, 2021, … . Example 3-2: Zero Excess Amount. The principal residence … . Example 4: Some Excess Amount. On March 1, 2021, … . Example 4-1: Calculating Transfer to a Noneligible Transferee. The principal residence … . Example 4-2: Calculating Transferee to a Noneligible Transferee; Zero Excess Amount. The principal residence … . Example 5: Calculating Transferee to a Noneligible Transferee; Some Excess Amount. On June 1, 2022, … . Example 5-1: Calculating the Effect of Partial Interest Transfers. The full cash value … . Example 5-2: Calculating the Effect of Partial Interest Transfers; Zero Excess Amount. The full cash value … . Example 6: Calculating the Effect of Partial Ownership Interests and Partial Interest Transfers. On June 1, 2022, … . **Reasons for Proposed Language in the Section (c) Examples.** The proposed "subtitles" shown in red below as headings for Example 3, 3-1 and 3-2; Example 4, 4-1 and 4-2; Example 5, 5-1 and 5-2, and Example 6 are intended to provide context and focus the reader on the key subject of each, thereby making it easier and more efficient for assessors' staff, practitioners, and taxpayers to locate the provisions that may be applicable to their respective situations.	Accepted. Subtitles have been added to all examples.
10	(c)		Hon. Tom Bordonaro, San Luis Obispo County Assessor	Please consider adding an example where the principal residence is only part of the transfer. Either an example where the property is a duplex, and only one side is eligible as a principal residence, or where there is excess land in addition to the "area of reasonable size" needed for the principal residence.	Example will be provided via follow-up LTA.

ALTERNATIVE LANGUAGE: PROPOSED ADOPTION OF PROPERTY TAX RULE 462.520

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
11	(c)		Sandra Lee	See suggested rewrite posted on project page.	Accepted gender-neutral change to Examples 5 and 6. Other changes not accepted. Examples cite facts and provide an explanation. A merely mathematical solution is more appropriate for an LTA.
12	(c)(4)	Ex 3-1	Holly Lung, San Francisco City and County	Does this mean the original base year date would remain unchanged?	Yes. Question will be answered via LTA.
13	(c)(4)	Ex 6	Holly Lung, San Francisco City and County	Does this mean we are giving the excess amount a new (separate) base year than the excluded amount? Or does the New Taxable Value get a new base year?	Question will be answered via LTA.
14	(d)		Sandra Lee	See suggested rewrite posted on project page.	Not accepted. How the exclusion applies to a family farm is still under discussion with the Legislature. Questions will be answered via LTA.

ALTERNATIVE LANGUAGE: PROPOSED ADOPTION OF PROPERTY TAX RULE 462.520

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
15	(d)(2)	Ex 7 – 8	Hon. Antonio Vazquez, Chairman, BOE	Example 7: Calculating Effect of Removal of Eligible Transferee. Parent transfers … Example 7-1: Eligible Transferee Rents to a Third Party. Son and Daughter … Example 7-2: Eligible Transferee Moves but Another Eligible Transferee Moves In. Instead of renting … Example 7-3: Eligible Transferee Sells Interest to Another Eligible Transferee. Instead of renting … Example 7-4: Eligible Transferee Sells Interest to Another Eligible Transferee Who Rents an Interest to a Third Party. Son sells … Example 8: Removal of the Exclusion Due to Lack of Occupancy by Eligible Transferees. Parent transfers … **Reasons for Proposed Language in the Section (d) Examples.** The proposed "subtitles" shown in red below as headings for Example 7, 7-1, 7-2, 7-3, and 7-4 and Example 8 are intended to provide context and focus the reader on the key subject of each, thereby making it easier and more efficient for assessors' staff, practitioners, and taxpayers to locate the provisions that may be applicable to their respective situations.	Accepted.
16	(d)(2)	Ex 7-1 to 7-4	Hon. Lawrence Stone, Santa Clara County Assessor	In PTR Examples 7-1 through 7-4, staff has selected "three" years to illustrate what occurs when a second eligible beneficiary applies for the benefit after the first beneficiary moves out of the property. As the filing of a claim also allows for three years from the date of transfer, the use of three years in this example could be confused with the three year claim-filing timeframe. As such, we request these examples be modified to a longer time period, such as five or more years, so as to not be confused with the three year claim-filing deadline.	Accepted. Changed from three years to five years in all examples.
17	(d)(2)	Ex 7-2	Holly Lung, San Francisco City and County	Multiple Transferees: Filing of HOX, eligible has till Dec. 10 to file for no break in benefit. Daughter has to file a new application. BOE: if there is a break (removed HOX), would ASR remove exclusion and issue the Escape or wait the 1 year for daughter to file HOX? Communication to the other eligible transferee asking them to file HOX or notify ASR that no HOX will be applied. Timeline for response?	Question will be answered via LTA.
18	(d)(2)	Ex 7-4	Hon. Tom Bordonaro, San Luis Obispo County Assessor	In Example 7-4, there appears to be a typing error in line 9. The original transfer value was $800,000, not $900,000.	Accepted.
19	(e)		Sandra Lee	See suggested rewrite posted on project page.	Definitions generally follow those in ACA 11 or existing in 63.1. Suggestions to expand scope of definitions not accepted.

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
20	(f)		Hon. Tom Bordonaro, San Luis Obispo County Assessor	Please include an example where an exemption claim is NOT filed timely, even though an exclusion claim IS filed timely, and how that will preclude the assessor from allowing the exclusion.	This issue is still under discussion and may be addressed in a future LTA or rulemaking.
21	(f)		Sandra Lee	See suggested rewrite posted on project page.	Not accepted. Rule language follows existing practice and additional explanation via rule is not necessary. The complexity of the additional suggested examples are more appropriate for an LTA rather than included in a rule. Article XIII A, section 2.1(c)(5) requires the transferee file for the homeowners' or disabled veterans' exemption within one year of the date of transfer. The Constitution does not provide any exceptions to this one-year deadline.
22	(f)(1) (C)		Hon. Antonio Vazquez, Chairman, BOE	(C) If there are multiple transferees, the claim form, <u>as well as the homeowner's exemption claim,</u> may be filed and the certification made by any one of the eligible transferees. **Reason for proposed language in (C).** The reason for adding the claim for the homeowner's exemption below is to clarify that the names of any one or all of the transferees may be included on the homeowner's exemption claim form as occupants.	Claiming the homeowners' exemption has separate rules. The homeowners' exemption is available only to the transferee who occupies the property as a primary residence.
23	(f)(1) (A)(iii)		Hon. Tom Bordonaro, San Luis Obispo County Assessor	Under (f)(1)(A)(iii), if R&T 69.5 is not repealed, should reference to this section be included?	Accepted. Added reference to CA Const. art. XIII A, sec. 2(a).

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
24	(f)(1)(A)(v)		Hon. Tom Bordonaro, San Luis Obispo County Assessor	Under (f)(1)(A)(v), please include that the exemption claim is or will be filed within one year of the transfer.	Accepted.
25	(f)(2)		Hon. Lawrence Stone, Santa Clara County Assessor	**Filing Process: One year vs. Three years.** As drafted, the proposed rule requires the applicant file a claim for the homeowners' or disabled veterans' exemption within one year of the transfer (as required by ACA 11). However, the applicant has three years from the date of transfer to file a claim for this benefit to receive retroactive relief. We anticipate significant confusion relating to the differences between the one year and three year requirements. For example, it may be more than one year before an assessor mails out a homeowners' claim card and/or an assessment notice. As a result, an otherwise qualified beneficiary may not be aware of the one year requirement to reside in the home as their principal residence to be eligible for Proposition 19. We request an example in the rule that makes explicit the one year exemption filing requirement in relationship to the three year claim filing period. In addition, we request clarity as to the filing process when a subsequent sibling seeks to replace the original qualifying sibling. Presumably, the subsequent sibling would have one year from the date the original sibling no longer claimed a home as their principal residence to move in and file for a homeowners' or disabled veterans' exemption, and then up to three years to file a claim for the exclusion. An example illustrating would be informative for taxpayers. It might even be combined in an example under # 1 above.	Added clarification. Edited Example 9 and added Example 9-1.
26	(f)(2)	Ex 10	Holly Lung, San Francisco City and County	To whom does the Child file a claim for refund? Will this be a BOE form?	Question will be answered via LTA. Claims for refund are filed with the auditor. There will not be a BOE prescribed form.
27	(f)(2)	Ex 10, 11, 12	Hon. Christina Wynn, Sacramento County Assessor	Please remove the sentence, “Child must file a claim for refund to receive a refund“, from Examples 10, 11, and 12 on pages 10 and 11. R&T 5096 provides taxes paid shall be refunded if one of the conditions specified therein exists. The hypothetical tax payment and delayed exemption/exclusion claim filing situations described in examples 10, 11 and 12 in proposed Tax Rule 462.520 do not fit under any of the express conditions for a refund under R&T Code 5096. R&T 5097 states a refund order, “shall not be made, except on a claim” that meets the procedural criteria, specified in that section. This means that filing a claim is a prerequisite for a refund under R&T 5097. Notwithstanding sections 5096 and 5097, R&T 5097.2 states any tax paid “may be refunded” if, “(c) The amount paid exceeds the amount due on the property as the result of corrections to the roll or cancellations after those taxes were paid.” It is thus possible for a county auditor to process a refund under R&T Code section 5097.2(c) without a formal filed claim from the taxpayer. We, therefore, request that the sentence at the end of Examples 10, 11, and 12, “Child must file a claim for refund to receive a refund” be removed.	Accepted. Deleted phrase from Examples 10, 11, and 12.

ALTERNATIVE LANGUAGE: PROPOSED ADOPTION OF PROPERTY TAX RULE 462.520

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
28	(f)(4)		Hon. Tom Bordonaro, San Luis Obispo County Assessor	Under (f)(4), we are wondering if a transfer between an eligible grandparent and grandchild would be considered a third-party transfer? Whether it is or is not, including a statement to clarify the issue would be helpful.	Accepted. Added clarification to (f)(4).
29	(g)		Hon. Tom Bordonaro, San Luis Obispo County Assessor	Under (g), it states the $1, 000,000 shall be increased by the same percent increase in the House Price Index for California. What would happen in the (perhaps unlikely) event of a decrease? ACA 11, under 2. 1[c](4) states: "Beginning on February 16, 2023, and every other February 16 thereafter, the State Board of Equalization shall **adjust** the one million dollar ($1, 000,000) amount described in paragraph (1) for inflation **to reflect the percentage change** in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency, (emphasis added). Perhaps consider using the language from ACA 11, so there would be no potential conflict between the regulation and the constitutional language?	Accepted.
30	(g)		Sandra Lee	Suggest relocation to subdivision (c). See suggested rewrite posted on project page.	Suggested relocation not accepted.
31	(g)(1)		Holly Lung, San Francisco City and County	Will there be tracking of annual index?	The BOE will issue an annual LTA that includes previous years' data, similar to the annual LTAs issued for the inflation indexing and the interest components for historical and open space property.

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
32			Patric Barry	The interpretation by the lawyers at the Board of Equalization of Proposition 19 is far too broad. The rule adopted, and the rule proposed, is not contained anywhere in the ballot measure for which the people of California voted. The net result of this action by the Board of Equalization is to write and create rules which depart from the obvious intent of Proposition 19. For example, the proposed rule does not show that occupancy by a family member must be within one year from the effective date of transfer (typically, the death of the property owner). The one year limitation is far too restrictive, and I can think of several scenarios which prevent a family member of taking occupancy within that time period, including: a) repair of renovation of the principal residence structure; b) inability to sell a residence presently occupied by the heir apparent, due to a slow market, weak economy, or health or physical reasons; c) finalizing a will or an estate, especially where probate must be ruled by a court. We commonly see delays in probate courts, especially at the present time where the pandemic closed all state courts for months and the backlog is delaying granting of probate for well beyond one year; d) commonly, several heirs might be interested in occupying the subject property, and if a court must decide which heir has the right to occupy, the process would, typically, run for well over one year, and, perhaps, as long as five years. As proposed, the one year limitation for taking residency offers no right of appeal, so the rule is harsh and oppressive and should be eliminated. If a calendar limitation is to be imposed then a five year limitation would be practical, although no calendar limitation be preferable in case the property remains vacant, pending occupancy by the heir.	Article XIII A, section 2.1(c)(5) requires the transferee file for the homeowners' or disabled veterans' exemption within one year of the date of transfer. To qualify for either exemption, the family home must be owned and occupied by the transferee as a principal residence. Thus, the one-year period is mandatory and cannot be changed. The Constitution does not provide any exceptions.
33			Lawrence Stone, Santa Clara County Assessor	**Non-Pro Rata Share Distribution.** Currently, when two siblings inherit a home and other assets equal to the value of the home, they can allocate 100% of the home to one sibling and 100% of the other assets to the other sibling without triggering a sibling reassessment. Under Proposition 19, at least one eligible beneficiary of a parent-to-child trust must use the home as their principal residence within one year of transfer. Thereafter, the exclusion is maintained as long as an eligible beneficiary claims the home as their principal residence. However, in a non-pro rata distribution where one sibling becomes the sole beneficiary/owner of the home, the second sibling is no longer an eligible beneficiary, and is unable to claim the home as their principal residence for the purposes of the Proposition 19 exclusion. As we anticipate confusion concerning non-pro rata share distributions and Proposition 19, we request an example that makes clear only a beneficiary of the principal residence is an "eligible transferee" for exclusion purposes, either at the time of transfer or in later years.	While we agree that this clarification is desirable, the proposed rule sets out the basic exclusion requirements. Therefore, non-pro rata and joint tenancy, are better addressed in a future LTA, and will also likely be the subject of future legal opinions/memos.

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
34			Lawrence Stone, Santa Clara County Assessor	**Application of Joint Tenancy and Prop. 19 Intergenerational Exclusions** Parent-to-child transfers received near the Proposition 19 intergenerational effective date of 2/16/2021 may qualify for exclusion under Rev. and Tax Code 65(b). However, due to the timing and nonreassessment of these properties, our office is concerned that owners may believe they qualify for exclusion under Proposition 58/193, not Proposition 19 (see example below). In anticipation of the confusion, we request examples, such as below, that illustrate the basis for an exclusion. This will help prepare owners for likely future reassessment under Proposition 19. Example 1: On 2/01/2021, a parent who is the original owner of their home, adds their child to their principal residence as a joint tenant. They also indicate on their PCOR that it is a parent-to-child transfer and file a Prop 58/193 claim. On 5/20/2024, the parent dies. When the parent adds the child as a joint tenant on 2/01/2021, the transfer is excluded under the Rev. and Tax Code 65(b). Subsequently, when the parent, the original transferor, dies on 5/20/2024, a change of ownership will occur as of the date of death. The transfer on 5/20/2024 will be for 100% interest, and will be subject to Prop. 19. Under Proposition 19 guidelines, the child will need to do the following to qualify: A. File a homeowner's exemption claim within one year of mother's death. B. Move into the family home within one year of mother's death, or continue to reside in the family residence. C. Timely complete and file the Proposition 19 exclusion claim form.	While we agree that this clarification is desirable, the proposed rule sets out the basic exclusion requirements. Therefore, non-pro rata and joint tenancy, are better addressed in a future LTA, and will also likely be the subject of future legal opinions/memos.
35			William Brigida	Please consider issuing guidance that would codify the date of Intergenerational Transfers for property tax assessment purposes as the property grant date rather than the transfer recording date.	Not accepted. This would be contrary to Rule 462.260(a).

36			Cuc Tu	Issues for Consideration Re: Prop 19 - Transfer of Primary Residence to Parent's Child or Stepparent's Stepchild Residences may be owned by only one parent (or partner) outright, or in trust, or joint. Blended families have more complex issues to address. Where property was inherited 50/50 as separate property to each spouse, title is held in their respective trusts and one homestead is filed. At death, existing estate provisions allow the property of the decedent spouse to be given through a QTIP trust, or "outright", or in the form of a "right to occupy" or as a "life estate" to the surviving spouse. It is not clear how these choices would (or even could be) handled under the proposed one-year occupancy by the Child provision of Prop 19, as discussed further below. **QTIP Trust** – The property (real estate, securities, etc.) is placed in a special trust for the surviving spouse with the requirement that all income be paid to the surviving spouse, but any principal or income remaining in the trust then be inherited by the beneficiaries (i.e., the parent's children). The primary reason to use a QTIP is to defer any estate taxes until the death of the second spouse. While estate tax exemptions are very high currently, that is not expected to last, and a more realistic view needs to be considered. It's easy to see, however, that a surviving spouse could live another ten or twenty years, and could also remarry, etc., so a child would be waiting a very long time for any inheritance. The one-year time frame for move in doesn't work. The surviving spouse would already have a homestead. **Outright** – The decedent gifts his/her share of the property outright to his/her spouse, no strings attached. The surviving spouse may elect later to gift to the Child or not. **Right to Occupy.** The surviving spouse or partner may be given the right to occupy the property during the remainder of his/her lifetime. Right to occupy is not a legal form of title, the surviving spouse has no ownership interest in the property nor is on title. The Trustee of the decedent's trust holds title, so does not file a homestead, even though the spouse lives there. This right is personal and therefore cannot be sold or transferred, however, the surviving spouse or partner may still have responsibility for expenses and property taxes. When the right to occupy does end, then the next beneficiary (Child) would inherit. This could be many years later. The one-year time frame for move in doesn't work. Instead, a form might be prepared and filed with the County addressing this provision as a "placeholder" for the day the Child can inherit and actually move in. **Life Estate.** The surviving spouse or partner may be given a life estate in the real property, which is a form of legal title which the surviving spouse or partner CAN sel l (e.g., if he/she has to move, they have the "right" to sell their interest in the real property ; i.e., the value of the remaining life to a third party.) Another possibility might be for the parents to establish a life estate for both of them while they are alive, with their children as remaindermen, receiving the property after the last Life Tenant dies. The property could not be sold unless both Life Tenants and the Children all agree, and the Child has no liability for the property while the two Life Tenants live. The one-year provision for the Child to move in does not work. The parents who are both Life Tenants could live another 20 or 30 years or more (depending on when they establish their joint Life Tenancy). Again, perhaps a form can be filed with the County as a "placeholder" identifying the Child(ren) beneficiaries so the first $1 million protection from property tax increase might be retained for the future event. [continued]	No alternate language provided. Transfers of real property between spouses or registered domestic partners are excluded from reassessment under RTC section 63 or 62(p), which is not the subject of this proposed rule. The complexity of the additional suggested topics are more appropriate for an LTA or annotated opinion, rather than included in a rule. Article XIII A, section 2.1(c)(5) requires the transferee file for the homeowners' or disabled veterans' exemption within one year of the date of transfer. To qualify for either exemption, the family home must be owned and occupied by the transferee as a principal residence. Thus, the one-year period is mandatory and cannot be changed. The Constitution does not provide any exceptions.
36			Cuc Tu (continued)	Handling of 50% Separate Interest	

NO.	SECTION REFERENCE		SOURCE	PROPOSED LANGUAGE	SBE STAFF POSITION
				1) The first spouse to die can only give his/her 50% separate interest using one of the above four choices. With the right-to-occupy, no additional homestead is filed (it already exists for the surviving spouse since only one homestead application is filed by the couple.) Same is true for 'outright' gift to spouse who can then bequeath to the Child via his trust. It's not clear if the decedent's 50% share will be reassessed to FMV of the entire residence? If so, this would place a hardship on the surviving spouse! There should be no reassessment as to property taxes until the second spouse dies. If half the residence becomes subject to reassessment for property tax purposes, what would that computation consist of? **2)** With the surviving spouse receiving a life estate, then he/she does have full title (his/her own 50% ownership plus the remaining 50% life estate ownership) so far as being able to disposition the property, through his/her trust and including selling to a third party (e.g., the decedent parent's Child). In this instance, because the Child buys the property, is the first $1 million still protected? Or is this only applicable if the surviving spouse gifts or bequeaths the property to the Child? **3)** And, in the event the spouses place the house in a life estate for both of them while alive, with the remaindermen being the Child, in which case the Child has no rights or obligations until the second Life Tenant (second spouse) passes away, at which point the Child receives the residence. Would the Child still receive the $1 million protection against rise in property tax at this point many years later? Again, some kind of form used as a "placeholder" to protect the first $1 million from reassessment as of the date of establishing the life tenancy might be used and a requirement for obtaining a FMV as of that date to file with the "placeholder" form. **4)** In the above cases, the one-year move in provision does not work. It is possible that the surviving parent could live many years after the death of the first parent. **5)** In the case where the Child receives the residence and can move in within the one-year time frame, but then the Child dies the following year, does his/her child also receive the $1 million protection against rise in property tax (presuming his/her child's other parent is also deceased?) **6)** In another example, the surviving spouse (parent or stepparent) might also marry again. In this event, different or additional children from the new spouse might become eligible beneficiaries. Again, it would not be feasible to require the decedent's child to move in within one year (or their siblings in succession.) (Seems the record keeping would be burdensome and prone to errors and omissions.) **7)** With respect to siblings in succession, would that require a new FMV reassessment each time that occurs? **8)** It's also quite true that estates can and do take years to settle. During this time, the real property remains in the name of the Trustee for the decedent's trust, with the Child waiting to receive his/her bequest. When that finally occurs, I believe the actual transfer date is considered to be the date of the death of the decedent and not the final date of estate settlement. This, in itself, makes it impossible for the Child to file a homestead or take possession of the residence. In fact, the Trustee is responsible for determining the handling of the residence in that interim and in particular, if there is an estate contest. When the Child does finally receive clear title to the property and can file the homestead, any reassessment should be calculated as of the initial date of death and bequest, be it one or 10 years later.	