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PROPERTY AND SPECIAL TAXES DEPARTMENT
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No. 2013/014

January 28, 2013

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

INTERESTED PARTIES MEETING
CHANGE IN OWNERSHIP STATEMENT
AND
PRELIMINARY CHANGE OF OWNERSHIP REPORT

An interested parties process was initiated via Letter To Assessors 2012/019 to discuss proposed revisions to form BOE-502-AH, *Change in Ownership Statement* (COS), and form BOE-502-A, *Preliminary Change of Ownership Report* (PCOR). The process was initiated in response to a request from the California Assessors' Association Forms Subcommittee to make various changes to Part 3 on each form and to create instructions for each form. Additionally, Board staff added a question regarding the new cotenancy exclusion pursuant to the provisions of Assembly Bill 1700 (Stats. 2012, ch 781) which added section 62.3 to the Revenue and Taxation Code effective January 1, 2013.

Enclosed is a matrix arraying suggestions/comments received from interested parties. An interested parties meeting will be held on February 20, 2013 at the Board's Property Taxes facility located at 160 Promenade Circle, Room 1009, Sacramento (see enclosed driving instructions). The meeting will begin at 9:30 a.m. and should conclude by 12:00 p.m. (noon).

If you would like to participate by teleconference, dial 1-877-214-5010. The participant pass code is 217747. If you are unable to attend but would like to provide input for discussion at the meeting, please feel free to email your suggestions to Sherrie Kinkle at skinkle@boe.ca.gov.

If you have questions regarding these forms or the meeting, please contact Ms. Kinkle at 1-916-274-3363.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosures

**PROPOSED REVISIONS TO
FORM BOE-502-AH, *CHANGE IN OWNERSHIP STATEMENT*, AND
FORM BOE-502-A, *PRELIMINARY CHANGE OF OWNERSHIP REPORT***

	SOURCE	PROPOSED REVISION
1	BOE Staff	<p>Add question to Part 1 and re-letter remaining questions:</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No *D. This transfer is the result of a cotenant's death. Date of death _____.</p> <p>Comments: Assembly Bill 1700, effective January 1, 2013, provides for a change in ownership exclusion from property taxes for a transfer of an interest in real property between cotenants that takes effect upon the death of one cotenant under specified circumstances. On December 19, 2012, the Board approved form BOE-58-H, <i>Affidavit of Cotenant Residency</i>, to accommodate a claim for this exclusion.</p>

Revise Part 3. – CURRENT WORDING

PART 3. PURCHASE PRICE AND TERMS OF SALE

Check and complete as applicable.

- A. Total purchase or acquisition price. Do not include closing costs or mortgage insurance: \$ _____
- Down payment: \$ _____ Interest rate: _____% Seller-paid points or closing costs: \$ _____
- Balloon payment: \$ _____
- Loan carried by seller Assumption of Contractual Assessment* with remaining balance of: \$ _____

*An assessment used to finance property-specific improvements that constitutes a lien against the real property.

- B. The property was purchased: Through real estate broker. Broker name: _____ Phone Number: () _____
- Direct from seller From a family member
- Other. Please explain _____
- C. Please explain any special terms, seller concessions, financing, and any other information (e.g., buyer assumed the existing loan balance) that would assist the Assessor in the valuation of your property.

PROPOSED REVISIONS

PART 3. PURCHASE PRICE AND TERMS OF SALE

Check and complete as applicable.

- A. Cash down payment or value of trade or exchange excluding closing costs Amount \$ _____
- B. First deed of trust @ _____% interest for _____ years. Monthly payment \$ _____ Amount \$ _____
- Fixed rate Variable rate Bank/Savings & Loan/Credit Union Loan carried by seller
- Balloon payment \$ _____ Due date: _____
- C. Second deed of trust @ _____% interest for _____ years. Monthly payment \$ _____ Amount \$ _____
- Fixed rate Variable rate Bank/Savings & Loan/Credit Union Loan carried by seller
- Balloon payment \$ _____ Due date: _____
- D. Was an Improvement Bond or other public financing assumed by the buyer?
- Yes No Outstanding balance \$ _____
- E. Total purchase price (including real estate commission). \$ _____
- F. The property was purchased: Through real estate broker. Broker name: _____ Phone Number: () _____
- Direct from seller From a family member
- Other. Please explain _____
- G. Please explain any special terms, seller concessions, financing, and any other information (e.g., buyer assumed the existing loan balance) that would assist the Assessor in the valuation of your property.

3	California Escrow Association	<p>COMMENTS REGARDING CAA PROPOSED REVISIONS TO PART 3.</p> <p>In ongoing conversation with our committee members, the concern is basically that adding the concept of commissions may cause confusion on several levels. With that in mind, we would suggest that from the standpoint of clarity:</p> <ol style="list-style-type: none"> 1. The option that would be least confusing to the buyer would be to remove all reference to real estate commission and simply return to "Purchase Price" or "Sales Price." 2. If commissions are a necessary part of this, do the above but also remove from Item E, Part 3, the part that reads (including real estate commissions), and either: <ol style="list-style-type: none"> a. A further question in Part 3 (perhaps added into F) could ask: Does the Purchase Price above include real estate broker commissions? If yes, please specify amount(s) paid by buyer \$_____ and/or seller \$____, or specify if unknown _____. <p><u>or</u></p> <ol style="list-style-type: none"> b. A further question in Part 3 (perhaps added into F) could ask: Amount of real estate commission only paid by the Buyer \$_____. 3. Another option: add "if any" to the commission provision. This may still produce the result of mixed information, but at least would not be implying that commissions were a necessary part of a transaction. For the FSBO (for sale by owner, transaction not involving a real estate agent), commission questions may be even more confusing. <p>And then of course, corresponding instructions would need to be revised accordingly.</p> <p>We recognize that there may not be a perfect answer here that gets to the heart of what Assessors are looking for versus what is visible to buyers. Again, the risk is that Assessors receive "apples and oranges" answers that muddy the purchase price information—to some extent, this probably already happens.</p>
4	CAA Forms Subcommittee	<p>Add instructions. See Attachment A for form BOE-502-A and Attachment B for form BOE-502-AH</p>
5	Orange County Assessor	<p>Question: Should the PCOR and COS request an email address? The concern is that since the forms are confidential, if an email address is listed on the forms, there is then the potential for confidential information related to the PCOR and COS, or even the PCOR or COS themselves, to be transmitted in a "non-confidential" manner.</p>
6	Contra Costa County Assessor's Office	<p>Comment/Question: Our Recorder's Office is going to begin accepting deeds and PCORs electronically for recording. Can they provide us with only an electronic copy of the PCOR, or does it have to be paper? The only code section we can find that seems relevant is 480(f), but it addresses the <i>Change in Ownership Statement</i>, not specifically the PCOR.</p>

ADDITIONAL INFORMATION

Please answer all questions in each section, and sign and complete the certification before filing. This form may be used in all 58 California counties. If a document evidencing a change in ownership is presented to the Recorder for recordation without the concurrent filing of a *Preliminary Change of Ownership Report*, the Recorder may charge an additional recording fee of twenty dollars (\$20).

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

NAME AND MAILING ADDRESS OF BUYER: Please make necessary corrections to the printed name and mailing address. Enter Assessor's Parcel Number, name of seller, buyer's daytime telephone number, buyer's email address, and street address or physical location of the real property.

NOTE: Your telephone number and/or email address is very important. If there is a question or a problem, the Assessor needs to be able to contact you.

MAIL PROPERTY TAX INFORMATION TO: Enter the name, address, city, state, and zip code where property tax information should be mailed. This must be a valid mailing address.

PRINCIPAL RESIDENCE: To help you determine your principal residence, consider (1) where you are registered to vote, (2) the home address on your automobile registration, and (3) where you normally return after work. If after considering these criteria you are still uncertain, choose the place at which you have spent the major portion of your time this year. Check YES if the property is intended as your principal residence, and indicate the date of occupancy or intended occupancy.

PART 1: TRANSFER INFORMATION

If you check YES to any of these statements, the Assessor may ask for supporting documentation.

C,D,E, F: If you checked YES to any of these statements, you may qualify for a property tax reassessment exclusion, which may allow you to maintain your property's previous tax base. **A claim form must be filed and all requirements met in order to obtain any of these exclusions.** Contact the Assessor for claim forms. NOTE: If you give someone money or property during your life, you may be subject to federal gift tax. You make a gift if you give property (including money), the use of property, or the right to receive income from property without expecting to receive something of at least equal value in return. The transferor (donor) may be required to file Form 709, Federal Gift Tax Return, with the Internal Revenue Service if they make gifts in excess of the annual exclusion amount.

G: Check YES if the reason for recording is to correct a name already on title [e.g., Mary Jones, who acquired title as Mary J. Smith, is granting to Mary Jones]. This is not for use when a name is being removed from title.

H: Check YES if the change involves a lender, who holds title for security purposes on a loan, and who has no other beneficial interest in the property.

"Beneficial interest" is the right to enjoy all the benefits of property ownership. Those benefits include the right to use, sell, mortgage, or lease the property to another. A beneficial interest can be held by the beneficiary of a trust, while legal control of the trust is held by the trustee.

I: A "cosigner" is a third party to a mortgage/loan who provides a guarantee that a loan will be repaid. The cosigner signs an agreement with the lender stating that if the borrower fails to repay the loan, the cosigner will assume legal liability for it.

M: This is primarily for use when the transfer is into, out of, or between legal entities such as partnerships, corporations, or limited liability companies. Check YES only if the interest held in each and every parcel being transferred remains exactly the same.

N: Check YES only if property is subject to subsidized low-income housing requirements with governmentally imposed restrictions; property may qualify for a restricted valuation method (i.e., may result in lower taxes).

O: If you checked YES, you may qualify for a new construction property tax exclusion. **A claim form must be filed and all requirements met in order to obtain the exclusion. Contact the Assessor for a claim form.**

PART 2: OTHER TRANSFER INFORMATION

A: The date of recording is rebuttably presumed to be the date of transfer. If you believe the date of transfer was a different date (e.g., the transfer was by an unrecorded contract, or a lease identifies a specific start date), put the date you believe is the correct transfer date. If it is not the date of recording, the Assessor may ask you for supporting documentation.

B: Check the box that corresponds to the type of transfer. If OTHER is checked, please provide a detailed description. Attach a separate sheet if necessary. Draft For Discussion Purposes Only

PART 3: PURCHASE PRICE AND TERMS OF SALE

It is important to complete this section completely and accurately. The reported purchase price and terms of sale are important factors in determining the assessed value of the property, which is used to calculate your property tax bill. Your failure to provide any required or requested information may result in an inaccurate assessment of the property and in an overpayment or underpayment of taxes.

A. Enter the amount of the down payment, whether paid in cash or by an exchange. If through an exchange, exclude the closing costs.

"Closing costs" are fees and expenses, over and above the price of the property, incurred by the buyer and/or seller, which include title searches, lawyer's fees, survey charges, and document recording fees. Commissions and attorneys fees in lieu of commissions are not closing costs and should not be deducted from the total purchase price.

B. Enter the amount of the First Deed of Trust, if any. Check all the applicable boxes, and complete the information requested.

A **"balloon payment"** is the final installment of a loan to be paid in an amount that is disproportionately larger than the regular installment.

C. Enter the amount of the Second Deed of Trust, if any. Check all the applicable boxes, and complete the information requested.

D. If there was an assumption of an improvement bond or other public financing with a remaining balance, enter the outstanding balance, and mark the applicable box.

An **"improvement bond or other public financing"** is a lien against real property due to property-specific improvement financing, such as green or solar construction financing, assessment district bonds, Mello-Roos (a form of financing that can be used by cities, counties and special districts to finance major improvements and services within the particular district) or general improvement bonds, etc. Amounts for repayment of contractual assessments are included with the annual property tax bill.

E. Enter the total purchase price, not including closing costs or mortgage insurance.

"Mortgage insurance" is insurance protecting a lender against loss from a mortgagor's default, issued by the FHA or a private mortgage insurer.

F. If the property was purchased through a real estate broker, check that box and enter the broker's name and phone number. If the property was purchased directly from the seller (who is not a family member of one of the parties purchasing the property) check the "Direct from seller" box. If the property was purchased directly from a member of your family, or a family member of one of the parties who is purchasing the property, check the "From a family member" box. If the property was purchased by some other means (e.g., over the internet, at auction, etc.), check the "OTHER" box and provide a detailed description (attach a separate sheet if necessary).

G. Describe any special terms (e.g., seller retains an unrecorded life estate in a portion of the property, etc.), seller concessions (e.g., seller agrees to replace roof, seller agrees to certain interior finish work, etc.), financing, buyer paid commissions, and any other information that will assist the Assessor in determining the value of the property.

PART 4: PROPERTY INFORMATION

A. Indicate the property type or property right transferred. Property rights may include water, timber, mineral rights, etc.

B. Check YES if personal, business property or incentives are included in the purchase price in Part 3. Examples of personal or business property are furniture, farm equipment, machinery, etc. Examples of incentives are club memberships (golf, health, etc.), ski lift tickets, homeowners' dues, etc. Attach a list of items and their purchase price allocation. An adjustment will not be made if a detailed list is not provided.

C. Check YES if a manufactured home or homes are included in the purchase price. Indicate the purchase price directly attributable to each of the manufactured homes. If the manufactured home is registered through the Department of Motor Vehicles in lieu of being subject to property taxes, check NO and enter the decal number.

D. Check YES if the property was purchased or acquired with the intent to rent or lease it out to generate income, and indicate the source of that anticipated income. Check NO if the property will not generate income, or was purchased with the intent of being owner-occupied.

E. Provide your opinion of the condition of the property at the time of purchase. If the property is in "fair" or "poor" condition, include a brief description of repair needed.

IMPORTANT NOTICE

The law requires any transferee acquiring an interest in real property or manufactured home subject to local property taxation, and that is assessed by the county assessor, to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 90 days of the date of the change in ownership, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death or, if the estate is probated, shall be filed at the time the inventory and appraisal is filed. The failure to file a change in ownership statement within 90 days from the date a written request is mailed by the assessor results in a penalty of either: (1) one hundred dollars (\$100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed five thousand dollars (\$5,000) if the property is eligible for the homeowners' exemption or twenty thousand dollars (\$20,000) if the property is not eligible for the homeowners' exemption if that failure to file was not willful. The assessor is required to mail the request to file a change in ownership statement to the transferee at the address specified for mailing tax information on either the recorded instrument, the document evidencing a transfer of an interest in real property or manufactured home, or on the filed preliminary change in ownership report, or, if an address is not specified for mailing tax information, to any address reasonably known to the assessor. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment.

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