

ALTERNATIVE LANGUAGE
REVISION OF PROPERTY TAX RULE 462.040, CHANGE IN OWNERSHIP – JOINT TENANCIES

No.	Section Reference		Source	Proposed Language	BOE Staff Position
1	(b)(1)		Nora Galvez, Santa Clara County Assessor's Office	<p>Add sentence: All other initial and subsequent joint tenants are considered to be "other than original transferors." To create original transferor status, a transaction must occur that either changes title to joint tenancy or adds an additional person to title. The elimination of a joint tenant does not create "original transferor" status in any of the remaining joint tenants. <u>The purchase of the property as Joint Tenants does not constitute an original transferor status.</u></p> <p>BOE rewrite:</p> <p>All other initial and subsequent joint tenants are considered to be "other than original transferors." To create original transferor status, a transaction must occur that either changes title to joint tenancy or adds an additional person to title. <u>The purchase of property as joint tenants does not create original transferor status.</u> The elimination of a joint tenant does not create "original transferor" status in any of the remaining joint tenants.</p>	See BOE rewrite
2	(b)(1)	Ex. 5	Connie Siebler, Marin County Assessor's Office	<p>Add new paragraph: There seem to be two examples here. They are very close in what happens, so I understand why they are together, but I think there should be a new paragraph at "Likewise, if A, as the sole owner ..." When I am looking for examples to match a real world scenario, I look at the first few words or sentence of the example to see who transferred to whom to see if it matches my scenario. Separating these two examples by a paragraph break would allow me to quickly find the second example. Alternately, it could be a separate example, but I think the paragraph would be sufficient.</p> <p>Example 5: A and B purchase property as joint tenants. A and B transfer to A, B, C, and D as joint tenants. No change in ownership because the joint tenancy of A, B, C, and D is a joint tenancy described in subdivision (b)(1) of this rule. A and B, the transferors, are included among the transferees and are, therefore, "original transferors." C and D are "other than original transferors."</p> <p>Likewise, if A, as the sole owner, had transferred to A, B, C, and D as joint tenants, no change in ownership because the joint tenancy of A, B, C, and D is a joint tenancy described in subdivision (b)(1) of this rule. A would be an "original transferor" and B, C, and D would be "other than original transferors."</p>	Not accepted A separate paragraph would remove the language from Example 5 and make it part of (b)(1).

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3	(b)(1)(A)	Ex. 8	Connie Siebler, Marin County Assessor's Office	<p>Revise example: Add sentence at the end for clarity: <u>Also, B and C remain on title as transferors who are transferees and thereby become "original transferors."</u></p> <p>SBE Rewrite:</p> <p>Example 8: A is the sole owner of property. A grants the property to A, B, and C as joint tenants. The joint tenancy of A, B, and C is a joint tenancy described in subdivision (b)(1) of this rule; A is an "original transferor," and B and C are "other than original transferors." A dies <u>while D is A's husband</u>. A's interest in the property passes by operation of law to B and C, resulting in a 100 percent change in ownership because, after A's death, the only original transferor is no longer on title (as explained in subdivision (b)(1)(B) of this rule). Subsequently, B and C transfer the property to B, C, and D as joint tenants. D is A's husband. Although, The <u>new</u> joint tenancy of B, C, and D is a joint tenancy described in subdivision (b)(1) of this rule. <u>B and C are transferors who are among the transferees and thereby become "original transferors."</u> However, D does not become an "original transferor" because he did not acquire his interest from A during the period that A held an interest in the initial joint tenancy of A, B, and C.</p>	See SBE Rewrite. ? Reread
4	(b)(1)(A)	Ex. 8	Beth Grose, Contra Costa County Assessor's Office	<p>Revise sentence: A is the sole owner of property. A grants the property to A, B, and C as joint tenants. The joint tenancy of A, B, and C is a joint tenancy described in subdivision (b)(1) of this rule; A is an "original transferor.," and B and C are "other than original transferors." A dies. A's interest in the property passes by operation of law to B and C, resulting in a 100 percent change in ownership because, after A's death, the only original transferor is no longer on title (as explained in subdivision (b)(1)(B) of this rule). Subsequently, B and C transfer the property to B, C, and D as joint tenants. D is A's husband <u>widower</u>. Although, the joint tenancy of B, C, and D is a joint tenancy described in subdivision (b)(1) of this rule, D does not become an "original transferor" because he did not acquire his interest from A during the period that A held an interest in the initial joint tenancy of A, B, and C.</p> <p><i>Question:</i> Are B and C now original transferors? Can their status be stated?</p>	Not accepted. See BOE rewrite above
5	(b)(1)(A)	Ex. 9	Nora Galvez, Santa Clara County Assessor's Office	<p>Revise example: A transfers property to A and B as joint tenants. The joint tenancy of A and B is a joint tenancy described in subdivision (b)(1) of this rule; A is an "original transferor," and B is an "other than original transferor." C is A's registered domestic partner. A and B, as joint tenants, transfer the property to A, B, and C as joint tenants. <u>C is A's registered domestic partner.</u> C is an "original transferor" because he is the registered domestic partner of an "original transferor" and acquired his interest in the joint tenancy during the period that A was an "original transferor." B becomes an "original transferor" because he is a transferor who is among the transferees.</p>	Accepted

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6	(b)(1)(A)	Ex. 10 and 11	Claudia Cunha, Santa Cruz County Assessor's Office	<i>Question:</i> Why does B become an OT in example 10 but not in example 11? Not all of the transferors are among the joint tenants.	Discussion item
7	(b)(1)(A)	Ex. 10	Connie Siebler, Marin County Assessor's Office	<p>Revise example: Replace the two "was" with "is":</p> <p>A transfers property to A and B as joint tenants. The joint tenancy of A and B is a joint tenancy described in subdivision (b)(1) of this rule; A is an "original transferor," and B is an "other than original transferor." A and B, as joint tenants, transfer the property to B and C as joint tenants. C is A's registered domestic partner. C is an "original transferor" because C was <u>is</u> the registered domestic partner of A and C acquired an interest by means of a transfer from A. C takes the place of A because C was <u>is</u> A's registered domestic partner. Also, B remains on title as a transferor who is also a transferee, and thereby becomes an "original transferor."</p>	Accepted
8	(b)(1)(C)		Connie Siebler, Marin County Assessor's Office	<p>Revise sentence: Move the word "an" to precede "other than original transferor":</p> <p>(C) Termination of "Other Than Original Transferor's" Interest. The transfer terminates a joint tenancy interest held by <u>an</u> "other than an original transferor" in a joint tenancy described in subdivision (b)(1) of this rule and the interest is transferred either to an "original transferor," or to all the remaining joint tenants, provided that one of the remaining joint tenants is an "original transferor." The "original transferor" status of any remaining joint tenants ceases when a joint tenancy is terminated.</p>	Accepted
9	(b)(1)(C)	Ex. 14	Barbara Edginton, San Luis Obispo County Assessor's Office	<p>Add sentence: <u>A is an "original transferor" and C is an "other than original transferor."</u></p> <p>It should be clarified that in the new joint tenancy, A retains his OT status, and the C gets the OTOT status, even though B is not a transferor.</p> <p>SBE Rewrite:</p> <p>Example 14: A transfers property to A and B as joint tenants. The joint tenancy of A and B is a joint tenancy described in subdivision (b)(1) of this rule; A is an "original transferor," and B is an "other than original transferor." A and B transfer the property to A and C as joint tenants. No change in ownership because A, an "original transferor," is on title. <u>A remains an "original transferor." C is an "other than original transferor."</u></p>	See SBE Rewrite
10	(b)(1)(C)	Ex. 14	Claudia Cunha, Santa Cruz County Assessor's Office	<i>Question:</i> Would the answer be different if B granted to C instead of A and B granting to A and C?	Discussion item

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11	(b)(1)(D)	Ex. 17	Barbara Edginton, San Luis Obispo County Assessor's Office	<p>Revise sentence:</p> <p>Example 17: A and B purchase property as joint tenants. On December 12, 2004, A and B transfer their property interests to each other as joint tenants through their respective trusts. A and B are transferors who are among the joint tenants and are, therefore, considered to be "original transferors." If A and B had transferred their interests into trust on any date after <u>after</u> October 1, 2013, <u>or any date thereafter</u>, neither A's trust nor B's trust would be considered a joint tenant and neither A nor B would be considered an "original transferor" as a result of the transfer into trust.</p>	Accepted
12	(b)(1)(D)	Ex. 18	Barbara Edginton, San Luis Obispo County Assessor's Office	<p>On Example 18, if it is determined the step-transaction doctrine should be applied, isn't the reassessment usually applied once the last step is completed? I think that has been the direction given in other situations. However, if I am reading this Example correctly, if neither A, B, C, or D become original transferors, then there would be a 50% reassessment on August 13, 2003 and a 50% reassessment on January 13, 2004. Is this the intent?</p>	Discussion item
13	(b)(1)(D)	Ex. 18	Connie Siebler, Marin County Assessor's Office	<p>Example 18 needs some clarity. Under the circumstances where application of the step-transaction doctrine to disregard the form of the transaction, would we then have two 50% changes in ownership, one on August 13, 2003 and one on January 13, 2004, or would we then have a 100% change in ownership on January 13, 2004?</p>	Discussion item
14	(b)(2)(C)	Ex. 22	Claudia Cunha, Santa Cruz County Assessor's Office	<p>Revise sentence: Is the wording correct in the last sentence of example 22?</p> <p>Example 22: A owns property. A transfers the property to A and B as joint tenants. The joint tenancy of A and B is a joint tenancy described in subdivision (b)(1) of this rule; A is an "original transferor," and B is an "other than original transferor." A and B transfer the property to X Corporation, each taking back 50 percent of the stock. 100 percent change in ownership because the transfer terminated the joint tenancy of A and B, and none <u>all</u> of the interests in the property were <u>was not vested solely</u> in A, the only original transferor, after the termination.</p> <p>SBE Rewrite:</p> <p>Example 22: A owns property. A transfers the property to A and B as joint tenants. The joint tenancy of A and B is a joint tenancy described in subdivision (b)(1) of this rule; A is an "original transferor," and B is an "other than original transferor." A and B transfer the property to X Corporation, each taking back 50 percent of the stock. 100 percent change in ownership because the transfer terminated the joint tenancy of A and B, and none <u>of the interests in the property were not vested in whole or in part</u> in A, the only original transferor, after the termination.</p>	See SBE Rewrite

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15	(b)(6)		Connie Siebler, Marin County Assessor's Office	<p>Add phrase:</p> <p>(6) Cotenancy Exclusion. The transfer is one to which the cotenancy exclusion applies, <u>and for which an affidavit has been submitted as required by</u> pursuant to section 62.3 of the Revenue and Taxation Code."</p>	Accepted