

Notice of Proposed Emergency Action and Finding of Emergency
The State Board of Equalization has Adopted California Code of Regulations, Title 18,
Section 462.520, *Exclusion from Change in Ownership – Intergenerational Transfers*

NOTICE IS HEREBY GIVEN that the State Board of Equalization (BOE), pursuant to the authority vested by section 15606 of the Government Code and section 63.2 of the Revenue and Taxation Code,¹ has amended California Code of Regulations, title 18, section (Property Tax Rule or Rule) 462.520, *Exclusion from Change in Ownership – Intergenerational Transfers*, as an emergency regulation in accordance with section 11346.1 of the Government Code, to be codified in division one of title 18 of the California Code of Regulations. Rule 462.520 implements, interprets, and makes specific section 63.2 of the Revenue and Taxation Code which was enacted to set forth procedures and definitions implementing Article XIII A, section 2.1 of the California Constitution.

FINDING OF EMERGENCY

Section 48 Statement

Government Code section 11346.1, subdivision (a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Statement of Emergency

The Legislature has deemed the existence of an emergency by enacting section 63.2 of the Revenue and Taxation Code, subdivision (h) of which states that,

[a]fter consultation with the California Assessors' Association, the board shall, by emergency regulation, adopt regulations ... necessary to implement this section and Section 2.1 of Article XIII A of the California Constitution.

It further states that “the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.”

Property Tax Rule 462.520 was adopted by the Board through the regular rulemaking process on July 7, 2021 and became effective on January 1, 2022. Following the adoption of the rule, additional amendments were deemed necessary. This emergency action makes additional amendments to Rule 462.520 to enable the administration of section 63.2 of the Revenue and Taxation Code and Article XIII A, section 2.1, subdivisions (c) and (d) of the California Constitution.

¹ All further statutory references are to the Revenue and Taxation Code unless otherwise indicated.

AUTHORITY

Section 15606, Government Code; section 63.2, Revenue and Taxation Code.

REFERENCE

Article XIII A, sections 2 and 2.1, California Constitution; and sections 60 and 63.2, Revenue and Taxation Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Law

Proposition 13 was adopted by the voters at the June 1978 primary election and added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of one percent of the full cash value of real property. For purposes of this limitation, section 2 of article XIII A defines full cash value to mean a county assessor's valuation of real property as shown on the 1975-76 tax bill, or thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. In general, properties are reassessed to current market value only upon a change in ownership or the completion of new construction, establishing a new "base year value" for property tax purposes. The California Legislature codified the definition of "change in ownership" in section 60 and codified additional Revenue and Taxation Code sections regarding whether a transfer of property results in a change in ownership, is excluded from the definition of "change in ownership". (Rev & Tax. Code §§ 61 through 69.6).

Relevant to this Rule, voters amended Article XIII A of the constitution to add two exclusions from change in ownership. Specifically, Proposition 58, effective November 6, 1986, excluded from change in ownership certain transfers of real property between parents and children and Proposition 193, effective March 27, 1996, excluded from change in ownership certain transfers of real property from grandparents to grandchildren, provided that all of the parents of the grandchildren who qualify as children of the grandparents are deceased as of the date of transfer. These two constitutional amendments are reflected in section 2, subdivision (h) of article XIII A of the California Constitution, codified at section 63.1 of the RTC, and are referred to as the Parent-Child and Grandparent-Grandchild Exclusions, respectively.

In the November 3, 2020 general election, the voters amended the constitution by approving Proposition 19 (Prop 19), which, amongst other things, created a new intergenerational transfer exclusion (by adding Section 2.1, subdivisions (c) to article XIII A of the California Constitution) and adopted a sunset date of February 15, 2021 (pursuant to Section 2.1, subdivision (d)) for the Parent-Child and Grandparent-Grandchild Exclusions.

Beginning on and after February 16, 2021, section 2.1, subdivision (c) of article XIII A of the California Constitution provides that the terms "purchased" and "change in ownership" do not include the purchase or transfer of a family home or family farm of the transferor in the case of a

transfer between parents and their children or grandparents and their grandchildren, only if the property continues as the family home or family farm of the transferee. This exclusion is available only up to a calculated amount. If the fair market value of the property is greater than that amount, partial relief is available. These provisions also apply to a purchase or transfer of a family home or family farm between grandparents and their grandchildren, as long as all of the parents of those grandchildren, who qualify as children of the grandparents, are deceased as of the date of the purchase or transfer. No provision is made for the exclusion from change in ownership of the transfer of any other type of property between parents and children or grandparents and grandchildren.

Effects, Objectives, and Benefits of the Amendments to the Property Tax Rule

Under the authority of Government Code section 15606, subdivision (c), which authorizes the Board to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing, the Board adopted Property Tax Rule 462.520, *Exclusion from Change in Ownership – Intergenerational Transfers* to implement, interpret, and make specific the change in ownership provisions instituted by Proposition 19 through the regular rulemaking process.

Following the adoption of Rule 462.520, additional amendments were deemed necessary to further implement, interpret, and make specific section 63.2. Pursuant to section 63.2, which was enacted subsequent to the adoption by the Board of Rule 462.520 through the regular rulemaking process, these amendments to the Rule to implement section 63.2 and section 2.1 of Article XIII A California Constitution are made through the emergency rulemaking process.

The amendments to Rule 462.520 make the following changes:

- Improve clarity. These amendments reorganize subdivision (f) into two paragraphs, one dealing with the filing of the Homeowners’ or Disabled Veterans’ Exemption claim forms and one dealing with the filing of the Exclusion claim form. Since both forms are required to be filed, creating a paragraph for each form makes the Rule more readable and understandable. Further, Examples 9 and 10 were added to the end of subdivision (d). These examples demonstrate the operation and calculation of subdivisions (a)(1)(B) and (C), (a)(5), (b), (c), and (d) of the Rule.
- Definitions. Definitions of “foster child”, “third-party transfer”, and “legal parcel” were added at subdivision (e)(1)(E) and subdivision (e)(10) of the Rule respectively. “Foster child” was defined by section 63.2, subdivision (e)(1)(E) and its inclusion in the Rule increases the usability of the Rule. “Third-party transfer” is defined as in prior Board guidance (Assessors’ Handbook section 401, p. 99). Its inclusion increases the convenience and usability of the Rule. The phrase “legal parcel” is used in section 63.2, subdivision (a)(2) to identify portions of property to which the exclusion may be applied is not defined. Because the Legislature’s intent was to allow the exclusion for portions of property that can be recognized as a separate parcel for legal purposes, it is necessary to create or

reference an existing standard to determine when a parcel is recognized as separate. Instead of creating a standard, reference is made to the Subdivision Maps Act which determines when a portion of property may be sold separate from other land of which it may be a part.

- Subdivision (e)(11)(A) clarifies that a principal residence does not cease to become the principal residence of a transferor on the death of the transferor. This is consistent with administrative practice under Proposition 58 and 193, and with the administration of the homeowners' exemption.
- Accessory Dwelling Units. Subdivision (e)(11)(B) includes "accessory dwelling unit" (ADU) and "junior accessory dwelling unit" (JADU) as part of the principal residence. This is consistent with recent legislation governing ADUs and JADUs and simplifies administration of the exclusion.
- Subdivision (f)(1) and (5) clarifies that transferees are entitled to a refund of any amounts paid erroneously if the homeowners' exemption claim form is filed timely and to prospective relief if the homeowners' exclusion claim form is filed late. Eligibility for the exclusion is dependent on the condition that the property is the principal residence of the eligible transferee. The filing of the homeowners' exemption claim form merely evidences this fact. Whether the exclusion available or lost forever is not conditioned upon the filing of the form. Rather, a more reasonable interpretation of Section 2.1 is that although the homeowners' exemption claim form must be filed at the time of the purchase or transfer of the property, if the form is filed within one year the transferee is eligible for the exclusion and entitled to a refund of amounts previously owed or paid between the date of the purchase or transfer and the date the transferee claims the homeowners' exemption claim form. If the homeowners' exemption claim form is not filed within one year the transferee is eligible for the exclusion, the transferee is not entitled to refunds, but may qualify for the exclusion prospectively. This is also consistent with prospective-only relief for late filing of the exclusion claim form.

The above clarifications are reasonably necessary for the efficient and fair administration of the change in ownership provisions under section 63.2 and section 2.1 of article XIII A of the California Constitution applicable to base year value transfers. The Board anticipates that the amendments to the Proposed Rule will increase openness and transparency in government and benefit the public, local boards of equalization and assessment appeals boards, county assessors, and owners of property potentially eligible for a base year value transfer provided by section 63.2.

The Board has performed an evaluation of whether the amendments to proposed Property Tax Rule 462.520 are inconsistent or incompatible with existing state regulations. The Board has determined that the amendments to the Proposed Rule are not inconsistent or incompatible with existing state regulations because there are no other Property Tax Rules that prescribe the

provisions that would be adopted by the amendments to the Rule. In addition, there is no comparable federal regulation or statute to Property Tax Rule 462.520.

DOCUMENTS RELIED UPON

- LTA No. 2022/014 (Dated April 1, 2022)
- LTA No. 2021/054 (Dated December 3, 2021)
- Chief Counsel Memorandum to Board Members Dated April 16, 2021, Incorporated into the April 27, 2021 Minutes by Reference
 - Notice of Proposed Regulatory Action
 - Initial Statement of Reasons for Proposed Rule
 - Rule Text
- Assembly Constitution Amendment Number 11 (ACA 11)
- Legislative Analyses for ACA 11
 - Assembly Committee on Budget
 - Assembly Third Reading
 - Senate Committee on Appropriations
 - Senate Committee on Budget and Fiscal Review
 - Senate Committee on Elections and Constitutional Amendments
 - Senate Rules Committee
- Proposition 19 Ballot Pamphlet
 - Analysis of Measure
- Chief Counsel Memorandum to Board Members dated January 8, 2021
 - Proposition 19 – Initial Interpretational Questions and Answers
- LTA No. 2020/061 (Dated December 11, 2020)
- LTA No. 2021/008 (Dated February 16, 2021)
- LTA No. 2021/010 (Dated March 5, 2021)
- Related Correspondence Submitted for and Comments Made During the Board’s Discussion of the Issues and In Deciding to Propose the New Rule
 - December 17, 2020 Board Meeting
 - January 14-15, 2021 Board Meeting
 - February 11, 2021 Board Meeting

MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

Section 7 of SB 791 states that if the “Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.” Since SB 791 and its amendments, enactments, and repeals designate a lead county assessor and allocate new responsibilities, county assessor offices may be impacted and thus, the emergency regulation imposes a mandate on a local agency that is reimbursable.

EFFECTIVE PERIOD

Government Code section 11346.1, subdivision (e) provides that emergency regulations may remain in effect for 180 days from adoption. Therefore, the amendments to Rule 462.520 shall be effective immediately upon filing with the Secretary of State and shall remain in effect for 180 days from that date, unless the BOE amends, renews, or repeals it before the expiration of the 180-day period.

CONTACT PERSONS

Questions regarding the substance of Rule 462.520 should be directed to Honey Her, Regulations Coordinator, by telephone at (916) 274-3523, by e-mail at Honey.Her@boe.ca.gov, or by mail at California State Board of Equalization Legal Department, Attn: Honey Her, MIC:121, P.O. Box 942879, Sacramento, CA 94279-0121.

[TEXT OF PROPOSED AMENDMENTS IN UNDERLINE AND STRIKEOUT]

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 Sections 60 and 63.2, Revenue and Taxation Code.

(a) GENERAL. Beginning on and after February 16, 2021, "change in ownership" shall not include the transfer of real property which is the principal residence or the family farm of an eligible transferor in the case of transfers between parents and their children or between grandparents and their grandchildren, meeting the following conditions:

(1) The principal residence or family farm of the transferor must 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.

(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. A family farm is not required to include a principal residence to qualify for this exclusion.

(C) A claim for exclusion under this section may be filed separately for a principal residence on a family farm if that principal residence meets all the requirements of this section.

(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 of the property no longer qualifying as the principal residence of the previous eligible transferee, the exclusion shall not be removed.

(3) 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.

(4) A claim for the exclusion sought pursuant to this section is filed with the county assessor in accordance with subdivision (f)(2) 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 transferred to an eligible transferee and excluded from change in ownership.

(b) VALUATION.

(1) Upon transfer, the principal residence or family farm obtains a new base year value 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 of the percent ownership of the principal residence or family farm not transferred.

(2) If a transferee meets the requirements for exclusion under this section, the principal residence or 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.

(3) 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 new taxable value upon removal of the exclusion shall be determined pursuant to subdivision (d) of this rule.

Example 1: *Base Year Value Calculation.* Parent transfers 100 percent 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. The principal residence's new base year value is \$900,000. If Child meets the requirements for exclusion under this section, the principal residence will be assessed at its New Taxable Value, in accordance with subdivision (c) of this rule, rather than its new base year value.

Example 2: *Base Year Value Calculation.* Parent transfers 75 percent interest in their principal residence to Child and retains 25 percent 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 percent interest transferred to Child) plus \$62,500 (\$250,000 factored base year value multiplied by the 25 percent interest retained by Parent) equals \$737,500. If Child meets the requirements for exclusion under this section, the principal residence will be assessed at its New Taxable Value, in accordance with subdivision (c) of this rule, rather than its new base year value.

(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):

(1) **Eligible Transferee's New Taxable Value:** the sum of the factored base year value of the principal residence or family farm immediately prior to the date of transfer plus any Excess Amount. This amount shall be multiplied by the percent interest of the principal residence or family farm transferred to eligible transferees.

(A) "Excess Amount" means the full cash value of the principal residence or 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 family farm immediately prior to the date of transfer plus \$1,000,000, adjusted pursuant to subdivision (g) of this rule.

(2) **Noneligible Transferee's New Taxable Value:** the full cash value of the principal residence or family farm on the date of transfer multiplied by the percent interest transferred to noneligible transferees.

(3) **Factored Base Year Value of Non-Transferred Interest:** the factored base year value of the principal residence or 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.

Example 3: *Excess Amount Calculation.* 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 percent interest in their principal residence to Child on March 1, 2021.

Examples 3-1 and 3-2 demonstrate alternatives using the facts described in Example 3.

Example 3-1: *Zero Excess Amount.* 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 New Taxable Value on the date of transfer is the factored base year value of \$250,000.

Example 3-2: *Excess Amount*. The principal residence has a full cash value of \$1,300,000 on the date of transfer. Since \$1,300,000 is greater than the \$1,250,000 Excluded Amount, there is an Excess Amount of \$50,000. Therefore, the New Taxable Value of the principal residence on the date of transfer is \$300,000 (\$250,000 factored base year value plus \$50,000 Excess Amount).

Example 4: *Transfer to both Eligible and Non-Eligible Transferees*. 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 75 percent interest in their principal residence to Child and the remaining 25 percent interest to Nephew on March 1, 2021.

Examples 4-1 and 4-2 demonstrate alternatives using the facts described in Example 4.

Example 4-1: *Transfer to both Eligible and Non-Eligible Transferees: Zero Excess Amount*. 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 Child). Since 25 percent of the principal residence is transferred to Nephew, a non-eligible transferee, the Noneligible 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 4-2: *Transfer to both Eligible and Non-Eligible Transferees: Excess Amount*. The principal residence has a full cash value of \$1,300,000 on the date of transfer. Since \$1,300,000 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 the principal residence was transferred to Nephew, a non-eligible transferee, the Noneligible 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 5: *Transfer to an Existing Owner Eligible Transferee*. On June 1, 2022, 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). Parent's principal residence is owned 60 percent interest by Parent and 40 percent interest by Child. Parent transfers her 60 percent interest to Child. Child meets all intergenerational transfer exclusion requirements, and the exclusion is applied.

Examples 5-1 and 5-2 demonstrate alternatives using the facts described in Example 5.

Example 5-1: *Transfer to an Existing Owner Eligible Transferee: Zero Excess Amount*. 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 Child). Since 40 percent interest in the principal residence was already owned by 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 5-2: *Transfer to an Existing Owner Eligible Transferee: Excess Amount*. 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 Child). Since 40 percent interest in the principal residence was already owned by 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 6: Transfer to an Existing Owner Eligible Transferee and Non-Eligible Transferee. On June 1, 2022, 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. Parent's principal residence is owned 60 percent interest by Parent and 40 percent interest by Child. Parent transfers 30 percent interest of her 60 percent interest to Child and her remaining 30 percent interest to 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 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 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).

(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 through the year the exclusion is lost. This amount shall be further adjusted as necessary, including for any part of the real property that changes ownership at the time the exclusion is lost, or that previously changed ownership, or that was newly constructed.

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

Example 7: Calculation of Taxable Value on Exclusion Removal. Parent transfers their principal residence 60 percent interest to Son and 40 percent interest to Daughter. 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 100 percent interest in the principal residence is transferred, the principal residence's new base year value as determined in subdivision (b) of this rule is \$800,000. Son meets all intergenerational transfer exclusion requirements, and the exclusion is applied. The New Taxable Value of the principal residence, pursuant to subdivision (c) of this rule, at the time the exclusion is first applied is \$150,000. Five years later, Son moves out of the principal residence and no longer qualifies for the exclusion. If the inflation factor was 2 percent each of the five years the property was Son's principal residence, the taxable value of the principal residence at the time Son moves out is \$165,612 (\$150,000 multiplied by the 2 percent adjustment for 5 years).

Examples 7-1 through 7-4 demonstrate alternatives using the facts described in Example 7.

Example 7-1: No Qualifying Subsequent Eligible Transferee: Full Exclusion Removal. Son and Daughter rent the property to a third party. As of the date the principal residence no longer qualifies for the homeowners' exemption, it no longer qualifies for the intergenerational transfer exclusion. Since 100 percent interest in the property is retained by former eligible transferees (Son and Daughter), the taxable value upon removal of the exclusion is the new base year value established at the time of the transfer (\$800,000) adjusted by the inflation factor for five years. Since the inflation factor was 2 percent each of those five years, the new base year value factored for inflation upon removal of the exclusion is \$883,265 (\$800,000 multiplied by the 2 percent adjustment for 5 years).

Example 7-2: Qualifying Subsequent Eligible Transferee: Exclusion Retained. Instead of renting the property to a third party, Daughter moves in within one year of Son moving out (which is 5 years after the 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, the intergenerational transfer exclusion is not removed. Therefore, the New Taxable Value, which is the taxable value, of the principal residence remains at \$165,612.

Example 7-3: Qualifying Subsequent Eligible Transferee: Partial Exclusion Removal, Partial Change in Ownership. Instead of renting the property to a third party, Daughter moves in within one year of Son moving out (which is 5 years after the transfer from Parent) and meets all intergenerational transfer exclusion requirements. At the time Son moves out, he sells his 60 percent interest to Daughter 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. Therefore, the New Taxable Value upon partial removal of the exclusion is \$606,245, 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 \$66,245 (\$165,612 multiplied by Daughter's 40 percent interest).

Example 7-4: No Qualifying Subsequent Eligible Transferee: Full Exclusion Removal, Partial Change in Ownership. Son sells his 60 percent interest to Daughter when the full cash value of the principal residence was \$800,000. Daughter rents the property to a third party. Since 60 percent interest in the principal residence was transferred to Daughter by Son, 60 percent of the principal residence must be reassessed, since there is no exclusion from reassessment for transfers between siblings. Therefore, the reassessed amount is \$480,000 (\$800,000 full cash value multiplied by the 60 percent interest sold to Daughter). Additionally, Daughter's 40 percent interest no longer qualifies for the exclusion. 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 (\$800,000), adjusted by the inflation factor for five years, which was previously excluded from reassessment by the intergenerational transfer exclusion. Since the inflation factor was 2 percent each of those five years, that amount is \$883,265 (\$800,000 multiplied by the 2 percent adjustment for 5 years). \$883,265 multiplied by the 40 percent interest in the real property retained by Daughter is equal to \$353,306. Therefore, the new base year value upon partial reassessment and then removal of the remaining exclusion of the principal residence is \$833,306 (\$480,000 plus \$353,306).

Example 8: Calculation of Taxable Value on Exclusion Removal. Parent transfers their principal residence 50 percent interest to Son and 30 percent interest to Daughter, retaining the remaining 20 percent interest. 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 as determined in subdivision (b) is \$670,000 (\$800,000 full cash value multiplied by the 80 percent interest transferred to Son and Daughter plus \$150,000 factored base year value multiplied by the 20 percent interest retained by Parent).

Part A: Qualifying Eligible Transferee. Son meets all intergenerational transfer exclusion requirements, and the exclusion is applied. The New Taxable Value of the principal residence, pursuant to subdivision (c), at the time the exclusion is first applied is the factored base year value of \$150,000.

Part B: No Subsequent Qualifying Eligible Transferee: Full Exclusion Removal, Partial Change in Ownership, Partial Interest Retained by Transferor. Three years later, Son moves out of the principal residence. If the inflation factor was 2 percent each of those three years, the taxable value of the principal residence is \$159,181 (\$150,000 multiplied by the 2 percent adjustment for 3 years). At the time Son moves out, he sells his 50 percent interest to Daughter when the full cash value of the principal residence was \$900,000. Daughter does not use the property as a principal residence and, thus, does not qualify for the intergenerational transfer exclusion. Therefore, the intergenerational transfer 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. That 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).

Example 9: Transfer of a Family Farm with a Principal Residence. A principal residence and family farm are located on a single, 60-acre legal parcel. The New Taxable Value of the principal residence and family farm are computed separately. The factored base year value of the entire legal parcel is \$450,000, \$200,000 of which is attributable to the principal residence and \$250,000 of which is attributable to the family farm. The full cash value of the legal parcel is \$2,800,000, \$1,200,000 of which is attributable to the principal residence and \$1,600,000 of which is attributable to the family farm. Parent transfers the entire legal parcel to Child on July 8, 2021. All other intergenerational transfer exclusion requirements have been met. The Excluded Amount of the principal residence is \$1,200,000 (\$1,000,000 plus \$200,000 factored base year value of the residence). Since the full cash value of the residence is not greater than the Excluded Amount of the residence, the New Taxable Value of the residence is the factored base year value of \$200,000. The Excluded Amount of the family farm is \$1,250,000 (\$1,000,000 plus \$250,000 factored base year value of the family farm). Since the full cash value of the farm is \$1,600,000, it has an Excess Value of \$350,000 (\$1,600,000 full cash value minus \$1,250,000 Excluded Amount). Therefore, the New Taxable Value of the family farm is \$600,000 (\$250,000 factored base year value plus \$350,000 Excess Value). The New Taxable Value of the entire legal parcel is \$800,000 (\$200,000 plus \$600,000).

Example 10: Calculation of Taxable Value on Exclusion Removal. Three years after the transfer in Example 9, Child moves out of state and leases the farm to Cousin for five years. The residence no longer qualifies for the exclusion. The family farm remains eligible for the exclusion. If the inflation factor was 2 percent each of the three years the property was Son's principal residence, the taxable value of the family farm is \$636,725 (\$600,000 multiplied by the 2 percent adjustment for 3 years). The taxable value of the principal residence at the time Son moves out is \$1,273,450 (\$1,200,000 multiplied by the 2 percent adjustment for 3 years). Therefore, the New Taxable Value of the entire parcel is \$1,910,175.

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

(1) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(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.

(C) Any son-in-law or daughter-in-law of the parent or parents. 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.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching 18 years of age.

(E) Any foster child of a state-licensed foster parent, if that child was not, because of a legal barrier, adopted by the foster parent or foster parents before the child aged out of the foster care system. For purposes of this paragraph, the relationship between a foster child and foster parent shall be deemed to exist until terminated by death. However, for purposes of a transfer that occurs on the date of death, the relationship shall be deemed to exist on the date of death.

(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.

(4) "Eligible transferor" means a grandparent, grandchild, parent, or child of an eligible transferee.

(5) "Factored base year value" means the amount determined pursuant to subdivision (f) of section 110.1 of the Revenue and Taxation Code.

(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.

(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.

(8) "Grandchild" or "grandchildren" means any child or children of the child or children of the grandparent or grandparents.

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

(10) "Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or for which a certificate of compliance has been recognized and recorded.

~~(1011)~~ "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.

(A) A principal residence shall include property owned by a decedent's estate, whether directly or through a trust, if it was the decedent's principal residence immediately prior to their death.

(B) A principal residence shall include an accessory dwelling unit or junior accessory dwelling unit in its appraisal unit if the accessory dwelling unit or junior accessory dwelling unit is not separately alienable from the title of any other dwelling unit on the property and the eligible transferee occupies one of the structures as their primary residence.

(i) "Accessory dwelling unit" has the same meaning as defined in subdivision (j)(1) of section 65852.2 of the Government Code.

- (ii) "Junior accessory dwelling unit" has the same meaning as defined in subdivision (h)(1) of section 65852.22 of the Government Code.

(4112)"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:

(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.

(C) A pro rata ownership in a floating home marina, as defined in subdivision (c) of section 62.5 of the Revenue and Taxation Code.

(4213)"Transfer" 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.

(4314)"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.

(4415)"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.

(f) FILING.

(1) Homeowners' or Disabled Veterans' Exemption Claim.

(A) A transferee who files a claim for the homeowners' or disabled veterans' exemption within one year of the purchase or transfer of the family home shall be entitled to a refund of taxes previously owed or paid, as a result of not having filed a homeowners' or disabled veterans' exemption, between the date of the transfer and the date the transferee claims the homeowner's exemption or disabled veteran's exemption.

(B) A transferee who is otherwise eligible for this exclusion and files a claim for the homeowners' or disabled veterans' exemption after one year of the purchase or transfer of the family home shall only receive the intergenerational transfer exclusion commencing with the lien date of the assessment year in which the claim is filed. The adjusted full cash value of the family home in that assessment year shall be the adjusted base year value of the family home in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year in which the exemption was filed for both inflation as annually determined in accordance with paragraph (1) of subdivision (a) of section 51 of the Revenue and Taxation Code and any subsequent new construction occurring with respect to the family home.

(42) Exclusion Claim Form. To request the intergenerational transfer exclusion, an eligible transferor and eligible transferee shall file a claim form, designed by the State Board of Equalization, with the county assessor in the county in which the principal residence is located.

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

- (i) that the transferee is a parent, child, grandparent, or grandchild of the transferor and that the transferor is their parent, child, grandparent, or 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.
- (iii) that the transferor will not file a claim to transfer the base year value of the property under either section 2, subdivision (a) or section 2.1, subdivision (b) of article XIII A of the California Constitution.
- (iv) that the real property is the transferor's principal residence or family farm; and
- (v) that the real property is or will become within one year the transferee's principal residence or family farm and a homeowners' exemption claim form will be filed, the property will continue to be the principal residence or the family farm of an eligible transferee, and the eligible transferee will notify the assessor if the real property is no longer the principal residence or the family farm of an eligible transferee.

(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.

(C) If there are multiple transferees, the claim form may be filed and the certification made by any one of the eligible transferees.

(D) The claimant shall provide substantiation of any matter certified pursuant to this paragraph at the request of the county assessor.

(23) Except as provided in paragraph (34), 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, 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.

Example 911: Exemption and Exclusion Forms Filed at Time of Transfer. Parent transfers their principal residence to Son and Daughter on March 1, 2021. The property is also the principal residence of Son. Son files a claim for the homeowners' exemption and the intergenerational transfer exclusion claim form at the time of the transfer. Because the homeowners' exemption claim form was filed within one year of the date of transfer as required by subdivision (a)(1)(A) and the intergenerational transfer exclusion claim form was filed within three years of the date of the transfer of the property as required by subdivision (f)(2), both 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 911-1 Exemption and Exclusion Forms Filed at Time of Transfer to Subsequent Eligible Transferee. A number of years later, Son moves out of the principal residence and Daughter moves in, making it her principal residence. Since Daughter was an eligible transferee of Parent, as long as Daughter files a homeowners' exemption claim form within one year and the intergenerational transfer exclusion claim form within three years, the property remains eligible for the intergenerational transfer exclusion.

Example 4012: Exemption and Exclusion Form Filed Within One Year of Transfer. 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 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 a cancellation of taxes previously owed between March 1, 2021 and January 31, 2022.

Example 4413: Exclusion Form Filed Within Three Years of Transfer. 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. Child still owns the property as their principal residence on March 1, 2023, and files the intergenerational transfer exclusion claim form on that date. 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 a cancellation of taxes previously owed between March 1, 2021 and February 28, 2023.

Example 4214: Exclusion Form Not Filed Within Three Years After of Transfer. 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. Child does not file an intergenerational transfer exclusion form and receives a notice of supplemental assessment on April 1, 2025. 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 or a cancellation of taxes previously owed between March 1, 2021 and March 31, 2025.

Example 15: Exemption Form Not Filed Within One Year of Transfer. Parent transfers their principal residence to Child on March 1, 2021. The property is also the principal residence of Child. Child files an intergenerational transfer exclusion form at the time of transfer but does not file a claim for the homeowners' exemption until a notice of supplemental assessment is received on April 1, 2023. Because Child did not file the homeowners' exemption within one year of the transfer, he is only eligible for prospective relief. The New Taxable Value as calculated in accordance with subdivision (c) of this Rule will be enrolled as of January 1, 2023.

Example 16: Property Does Not Become Principal Residence of Transferee Within One Year of Transfer. Parent transfers their principal residence to Child on March 1, 2021. Intending to move into the property, Child files an intergenerational transfer exclusion form at the time of transfer. However, Child does not move into the property until June 1, 2022 and files the homeowners' exemption form at that time. Because Child did not move into the property within one year of the transfer, she is not eligible for the exclusion.

(34) If the ~~principal residence~~ real property 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 (23) 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.

Example 4316: 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. Child receives a notice of supplemental assessment on April 1, 2022, and files the exclusion claim form 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.

(5) If the exemption claim required by subdivision (a)(1) of this rule is filed one year after the transfer for which the claim for exclusion required by subdivision (a)(4) of this rule is filed then the exclusion shall be granted commencing with the lien date of the assessment year in which the last of the two claims is filed.

(46) For purposes of this subdivision, a "third party" is any person, including any legal entity, who is not a transferor or transferee in the transfer for which the claim is being filed. However, a transfer of real property to a parent or child of the transferor or to a grandparent or grandchild of the transferor shall not be considered a transfer to a third party.

(g) ADJUSTMENT OF \$1,000,000

(1) On February 16, 2023, 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 adjusted by the same percent change in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency.

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

History: Adopted July 27, 2021, effective January 1, 2022.