

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Division 1. State Board of Equalization-Property Tax
Chapter 4. Equalization by State Board
Article 4. Change in Ownership and New Construction

Rule 462.220. Change in Ownership—Interspousal and Registered Domestic Partner Transfers.

Authority: Section 15606, Government Code.

Reference: Sections 60, 61, 62, 63, 64, 65, 65.1 and 67, Revenue and Taxation Code.

Notwithstanding any other provision of Rules 460 through 471, a change in ownership shall not include any interspousal transfer, pursuant to Revenue and Taxation Code section 63, or any transfer between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p), including, but not limited to:

- (a) Transfers of ownership interests in legal entities,
- (b) Transfers of ownership interests in legal entities resulting in one spouse or registered domestic partner obtaining control as defined in Revenue and Taxation Code section 64, subdivision (c),

Example 1: Husband (H) owns a 30 percent ownership interest in a partnership and wife (W) owns a 30 percent ownership interest in the same partnership. W transfers her interest to H; H now owns a 60 percent ownership interest. There is no change in ownership.

- (c) Transfers of ownership interests in legal entities by "original co-owners" which would otherwise be cumulated or counted for purposes of Revenue and Taxation Code section 64, subdivision (d),

Example 2: Spouses H and W are "original co-owners" of a partnership; each originally owned a 50 percent partnership interest. They have previously each transferred a 10 percent interest to X and to Y, leaving H and W each with a 30 percent partnership interest. W transfers a 15 percent interest to H. Although cumulatively more than 50 percent has been transferred, there is no change in ownership.

- (d) Transfers to a trustee for the beneficial use of a spouse or registered domestic partner, or the surviving spouse or registered domestic partner of a deceased transferor, or by a trustee of such a trust to the spouse or registered domestic partner of the trustor,
- (e) Transfers which take effect upon the death of a spouse or registered domestic partner,

Example 3: H and W each own a 30 percent interest in General Partnership (GP). H and W transfer their respective partnership interests to the HW Revocable Trust. No change in ownership. Trust provides that upon the death of the first spouse: the assets of the deceased spouse, including partnership interests in GP, shall be distributed to "A Trust," and the assets of the surviving spouse, including partnership interests in GP, shall be distributed to "B Trust." Surviving spouse is the sole present beneficiary of both A Trust and B Trust. No change in ownership upon the death of the first spouse.

- (f) Transfers to a spouse or registered domestic partner or former spouse or registered domestic partner in connection with a property settlement agreement, including post-dissolution amendment thereto, or decree of dissolution of a marriage or registered domestic partnership, or legal separation,
- (g) The creation, transfer, or termination, solely between spouses or registered domestic partners, of any co-owner's interest, or
- (h) The distribution of property of a corporation, partnership, or other legal entity to a spouse or registered domestic partner or former spouse or registered domestic partner having an ownership interest in the legal entity, in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or decree of dissolution of a marriage or registered domestic partnership, or legal separation.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.

Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(*l*).
Amended September 10, 1997, effective January 20, 1998.
Amended September 10, 2013, effective December 24, 2013.