

Memorandum

To: Honorable Antonio Vazquez, Chairman
Honorable Mike Schaefer, Vice Chair
Honorable Ted Gaines, First District
Honorable Malia M. Cohen, Second District
Honorable Betty T. Yee, State Controller

Date: April 16, 2021

From: Henry D. Nanjo
Chief Counsel

Subject: *April 27, 2021 Board Meeting
Chief Counsel Matters - Item G – Rulemaking.
Publication of Notice of Proposed Action
Proposed Property Tax Rule 462.520, Exclusion from Change in Ownership – Intergenerational Transfers*

Assembly Constitutional Amendment Number 11 (ACA 11) was presented to and approved by voters at the November 3, 2020 general election as Proposition 19 (Proposition 19 or Prop 19). Proposition 19 is entitled, “The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act” and, relevant to this rulemaking, created a new exclusion from change in ownership for transfers of family homes between parents and children and grandparents and grandchildren, the “intergenerational transfer exclusion”. These provisions are contained in section 2.1, subdivisions (c), (d), and (e) of article XIII A of the California Constitution (referred to as Section 2.1 with its corresponding subdivision for convenience).¹

Section 2.1(d) repealed the former parent-child and grandparent-grandchild exclusions by making inoperative provisions to the Constitution that were added by Propositions 58 and 193 in 1986 and 1996, respectively, and implemented by Revenue and Taxation Code section 63.1 (for convenience the former parent-child and grandparent-grandchild exclusions are referred to as the Proposition 58/193 exclusion). Generally, the Proposition 58/193 exclusion allows transfers of principal residences and \$1,000,000 of other real property between parents and children and from grandparents to grandchildren without property tax reassessment and its corresponding increase in property taxes.

Proposition 19, however, only allows transfers of a family home between parents and children and grandparents and grandchildren, up to an “excluded amount”.² If the fair market value of the family home at the time of transfer is over the “excluded amount,” (referred to as the Excess

¹ ACA 11 also added section 2.2 and 2.3 to Article XIII A of the California Constitution. Section 2.2 instructs how funds derived from section 2.1 are to be used and section 2.3 directs the California Department of Tax and Fee Administration to track the effects of section 2.1. The full text of ACA 11 is at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200ACA11 [as of December 2, 2020].

² The “excluded amount” is calculated by adding \$1,000,000 to the current taxable value of the family home.

Amount) the Excess Amount must be added to the taxable value. There is no exclusion for any other type of real property, even if it is less than \$1,000,000.

I. Procedural History

The text of Proposition 19 left a number of significant questions unanswered that are critical to its proper implementation and administration. The Board of Equalization (Board) is charged with the statutory responsibility and authority to “[p]rescribe rules and regulations to govern local boards of equalization when equalizing, and assessors when assessing” (Gov. Code, § 15606, subd. (b).) The Board must also, “Prepare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation.” (Gov. Code, § 15606, subd. (e).) Therefore, following the passage of Proposition 19, BOE staff issued guidance to assist taxpayers, assessors, and other interested parties.³ At the same time, Board staff, along with the California Assessors’ Association drafted proposed legislation that answers a number of important interpretational questions and also grants the Board emergency rulemaking authority. As of the date of this memorandum, that bill, Senate Bill (SB) 539, has not be enacted.⁴

Because SB 539 has not been enacted, the Legislature has not granted the Board explicit authority to promulgate rules for Proposition 19 through the emergency rulemaking process. Therefore, at its February 24, 2021 meeting, the Board authorized staff to initiate the regular rulemaking process for the intergenerational transfer exclusion provisions of Proposition 19. Consistent with the Board’s authorization, staff initiated the regular rulemaking process by issuing draft text of proposed California Code of Regulations, title 1, section (Property Tax Rule or Rule) 462.520, *Exclusion from Change in Ownership – Intergenerational Transfers* via Letter to Assessors (LTA) 2001/010. Comments on the draft text were received through April 2, 2021.

Staff has received and responded to a number of comments received before the formal rulemaking process in a “matrix” form that will be published on the Board’s website. To date, staff has accepted a number of comments that have helped to clarify various parts of the proposed rule as well as the examples. Additionally, some comments have suggested ways to reformat or reorganize portions of the proposed rule that were not accepted at this time.

Staff will maintain the comments received prior to the initiation of Rule 462.520’s formal rulemaking process, along with any comments received throughout the formal rulemaking process. Some of these comments may be revisited for future guidance or rulemaking efforts. After this rulemaking process concludes, if staff later agrees with a nonsubstantive comment not addressed or incorporated into this rulemaking effort, staff will seek the Board’s authorization to make future regulatory changes under California Code of Regulations, title 1, section (Rule) 100, without the normal notice and public hearing process.

³ All Proposition 19 guidance issued to date can be found here: < <https://boe.ca.gov/prop19/>> [as of April 14, 2021].

⁴ The bill was introduced as Senate Bill 539 on February 18, 2021, and was ordered to third reading in the Senate on March 9, 2021.

II. Staff's Recommendation

For the reasons stated above, and the necessity to promulgate rules as promptly as possible, Staff recommends that the Board authorize commencement of the official rulemaking process by authorizing the publication of a notice of proposed regulatory action regarding proposed Property Tax Rule 462.520 in the California Notice Register. The Notice of Proposed Regulatory Action, the Initial Statement of Reasons, and the proposed Rule in underline form are attached hereto.

If you need more information or have any questions, please contact Henry Nanjo, Chief Counsel, at (916) 274-3520.

Recommended by:

Approved:

/s/ Henry D. Nanjo
Henry D. Nanjo, Chief Counsel

/s/ BFleming
Brenda Fleming, Executive Director

Approved:

BOARD APPROVED on: _____

/s/ David Yeung
David Yeung, Deputy Director
Property Tax Department

Catherine Taylor, Chief
Board Proceedings Division

Attachments: Notice of Proposed Regulatory Action, Initial Statement of Reasons, Proposed Property Tax Rule 462.520

- cc: Ms. Brenda Fleming (MIC: 73)
- Mr. Henry Nanjo (MIC: 121)
- Mr. David Yeung (MIC: 64)
- Ms. Lisa Thompson (MIC: 120)

Notice of Proposed Regulatory Action
The State Board of Equalization Proposes to Adopt
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 (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt California Code of Regulations, title 18, section (Rule or Property Tax Rule) 462.520, *Exclusion from Change in Ownership – Intergenerational Transfers*. This Rule implements, interprets, and makes specific the change in ownership exclusion provisions under section 2.1 of article XIII A of the California Constitution (Section 2.1). Specifically, Section 2.1, subdivision (c) creates a new exclusion from change in ownership applicable to transfers of family homes and family farms between parents and children, and, under certain circumstances, between grandparents and grandchildren. This new exclusion became operative on February 16, 2021 and is referred to as the “intergenerational transfer exclusion.” Additionally, Section 2.1, subdivision (e) provides relevant definitions for the interpretation of the intergenerational transfer exclusion. Pursuant to the changes enacted by Section 2.1, subdivisions (c) and (e), the proposed new Property Tax Rule 462.520 (Proposed Rule) clarifies the eligibility for and application of the new intergenerational transfer exclusion, provides specific filing requirements to claim the exclusion, and explains the calculation of the “New Taxable Value” for qualifying property, with examples.

PUBLIC HEARING

The Board will conduct a meeting on July 27-28, 2021 via teleconference, consistent with the Governor’s Executive Order N-29-20 (issued March 17, 2020). The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board’s website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 10:00 a.m. on July 27, 2021, or as soon thereafter as the matter may be heard at the Board’s July 27-28, 2021 meeting. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the new Property Tax Rule 462.520.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Article XIII A, section 2.1, California Constitution; and Revenue and Taxation Code section 60.

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. The California Legislature codified the definition of "change in ownership" in Revenue and Taxation Code (RTC) section 60 and codified other provisions regarding whether a transfer of property results in a change in ownership or is excluded from the definition of "change in ownership" in RTC sections 61 through 69.5.

Relevant to this Proposed 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 transfers of real property between parents and children and Proposition 193, effective March 27, 1996, excluded from change in ownership 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) and (e) 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.

Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. The Board proposes to adopt 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 Prop 19. In particular, Property Tax Rule 462.520 implements, interprets, and makes specific California Constitution, Article XIII A, section 2.1, subdivision (c), which provides that:

(c) Property Tax Fairness for Family Homes. Notwithstanding any other provision of this Constitution or any other law, beginning on and after February 16, 2021, the following shall apply:

(1) For purposes of subdivision (a) of Section 2, the terms "purchased" and "change in ownership" do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, as defined by the Legislature, if the property continues as the family home of the

transferee. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. The new taxable value of the family home of the transferee shall be the sum of both of the following:

(A) The taxable value of the family home, subject to adjustment as authorized by subdivision (b) of Section 2, determined as of the date immediately prior to the date of the purchase by, or transfer to, the transferee.

(B) The applicable of the following amounts:

(i) If the assessed value of the family home upon purchase by, or transfer to, the transferee is less than the sum of the taxable value described in subparagraph (A) plus one million dollars (\$1,000,000), then zero dollars (\$0).

(ii) If the assessed value of the family home upon purchase by, or transfer to, the transferee is equal to or more than the sum of the taxable value described in subparagraph (A) plus one million dollars (\$1,000,000), an amount equal to the assessed value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the taxable value described in subparagraph (A) and one million dollars (\$1,000,000).

(2) Paragraph (1) shall also apply to a purchase or transfer of the family home between grandparents and their grandchildren if 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.

(3) Paragraphs (1) and (2) shall also apply to the purchase or transfer of a family farm. For purposes of this paragraph, any reference to a “family home” in paragraph (1) or (2) shall be deemed to instead refer to a “family farm.”

(4) Beginning on February 16, 2023, and every other February 16 thereafter, the State Board of Equalization shall adjust the one million dollar (\$1,000,000) amount described in paragraph (1) for inflation to reflect the percentage change in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency. The State Board of Equalization shall calculate and publish the adjustments required by this paragraph.

(5) (A) Subject to subparagraph (B), in order to receive the property tax benefit provided by this section for the purchase or transfer of a family home, the transferee shall claim the homeowner’s exemption or disabled veteran’s exemption at the time of the purchase or transfer of the family home.

(B) A transferee who fails to claim the homeowner’s exemption or disabled veteran’s exemption at the time of the purchase or transfer of the family home may receive the property tax benefit provided by this section by claiming the homeowner’s exemption or disabled veteran’s exemption within one year of the purchase or transfer of the family home and shall be entitled to a refund of taxes previously owed or paid between the date of the transfer and the date the transferee claims the homeowner's exemption or disabled veteran’s exemption.

Property Tax Rule 462.520 also implements, interprets, and makes specific Section 2.1, subdivision (e), which provides, in relevant part, that:

(e) For purposes of this section:

(1) “Disabled veteran’s exemption” means the exemption authorized by subdivision (a) of Section 4 of Article XIII.

(2) “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.

(3) “Family home” has the same meaning as “principal residence,” as that term is used in subdivision (k) of Section 3 of Article XIII.

(4) “Full cash value” has the same meaning as defined in subdivision (a) of Section 2.

(5) “Homeowner’s exemption” means the exemption provided by subdivision (k) of Section 3 of Article XIII.

(6) “Natural disaster” means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(7) “Primary residence” means a residence eligible for either of the following:

(A) The homeowner’s exemption.

(B) The disabled veteran’s exemption.

(8) “Principal residence” as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

(9) “Replacement primary residence” has the same meaning as “replacement dwelling,” as that term is defined in subdivision (a) of Section 2.

(10) “Taxable value” means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

Effects, Objectives, and Benefits of the Proposed Property Tax Rule

Here, the relevant Proposition 19 provisions became effective as of February 16, 2021. Under Government Code section 15606, subdivision (c), the State Board of Equalization (Board) is authorized to prescribe rules and regulations to govern local boards of equalization and

assessment appeals boards when equalizing and county assessors when assessing. Consistent with this responsibility, the Board seeks to promulgate new Property Tax Rule 462.520 to provide clarity of the relevant provisions within Section 2.1 of article XIII A of the California Constitution. Specifically, the Board is proposing this Rule to implement, interpret, and make specific subdivisions (c) and (e) of section 2.1 of article XIII A of the California Constitution. Proposed Rule 462.520, subdivision (a) makes explicit or provides clarification for specific provisions of Section 2.1, subdivision (c), including:

- That the transferred property must continue to be the principal residence or family farm of an eligible transferee or the exclusion is removed;
- That the transferred property must become the principal residence or family farm of a subsequent eligible transferee within one year of the initial eligible transferee in order for the exclusion to be retained;
- That a claim for a family farm can be filed separately from a claim for a principal residence;
- That the parent of a child must be deceased for the transfer of the property, between a grandparent and grandchild, to be excluded, but not the son-in-law or daughter-in-law of the grandparent;
- That there is no limit on the number of principal residences or family farms of a transferor that may be transferred to an eligible transferee and excluded; and
- Filing requirements.

Importantly, the Proposed Rule provides clarification for valuation of real property under the intergenerational transfer exclusion. In subdivision (b)(1), the Proposed Rule explains that a new base year value is calculated upon transfer of real property, but subdivision (b)(2) explains that if the qualifications for exclusion enumerated in subdivision (a) are met, the property will be assessed at its New Taxable Value as provided in Section 2.1, subdivisions (c)(1) to (c)(3) rather than at its new base year value. Subdivision (b)(3) explains the consequences to taxable value when the real property is no longer the principal residence of an eligible transferee. Examples 1 and 2 demonstrate the calculation of the new base year value of the property. The calculation of the New Taxable Value, which applies when the requirements for the intergenerational transfer exclusion have been met, is demonstrated under various scenarios in Examples 3 to 6.

The calculation of the assessed value when the intergenerational transfer exclusion is removed is explained in subdivision (d). Examples 7 and 8 illustrate the change in value when the eligible transferee no longer uses the property as a family home, when another eligible transferee moves in within one year and uses the property as a family home, when an eligible transferee transfers his interest to another eligible transferee, and when the transferor only transfers a portion of their property interest.

Subdivision (e) of the Proposed Rule provides definitions for terms used throughout the Rule and which are required for its implementation. It includes certain definitions (such as “family farm”, and “homeowner’s exemption”) or clarifies other definitions (such as “full cash value” and “principal residence”) that are found within Section 2.1, subdivision (e).

The Proposed Rule in subdivision (f) provides claim filing instructions, including: how an eligible transferee can file a claim for the intergenerational transfer exclusion; when the claim is considered timely; and that an untimely claim will only provide prospective relief. Finally, the Proposed Rule in subdivision (g) reiterates the provision within Section 2.1, subdivision (c)(4) requiring the Board calculate and publish an inflation adjustment factor. The above clarifications are reasonably necessary for the efficient and fair administration of the change in ownership provisions under section 2.1 of article XIII A of the California Constitution applicable to intergenerational transfers. The Board anticipates that 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 the intergenerational transfer exclusion instituted by Proposition 19.

The Board has performed an evaluation of whether proposed Property Tax Rule 462.520 is inconsistent or incompatible with existing state regulations. The Board has determined that the Proposed Rule is 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 proposed new Rule. In addition, there is no comparable federal regulation or statute to proposed Property Tax Rule 462.520.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the Proposed Rule will not impose a mandate on local agencies or school districts, including a mandate that requires state reimbursement under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

ONE-TIME COST TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of proposed new Property Tax Rule 462.520 will result in an absorbable \$856 one-time cost for the Board to update its website, issue letters regarding this Rule to interested parties, and train county assessors on how to assess property under this Rule after the Proposed Rule is completed. The Board has determined that the adoption of the Proposed Rule will result in no other direct or indirect cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, no other non-discretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Board has made an initial determination that the adoption of the new Proposed Rule will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The adoption of the proposed new Rule is not expected to affect small business.

NO COST IMPACTS TO PRIVATE PERSONS OR BUSINESSES

Other than the filing requirement, the Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b)

The Board assessed the economic impact of proposed new Property Tax Rule 462.520 on California businesses and individuals and determined that the Proposed Rule is not a major regulation as defined in Government Code section 11342.548 and California Code of Regulations, title 1, section 2000. Therefore, the Board has prepared the economic impact assessment (EIA) required by Government Code section 11346.3, subdivision (b)(1), for the Proposed Rule and included it in the initial statement of reasons. In the EIA, the Board has determined that the adoption of the Proposed Rule will neither create nor eliminate jobs in the State of California, nor create new businesses or eliminate existing businesses within the state, nor expand businesses currently doing business in the State of California. Furthermore, the Board has determined that the adoption of the Proposed Rule will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state's environment.

NO SIGNIFICANT EFFECT ON HOUSING COSTS

The adoption of proposed Property Tax Rule 462.520 will not have a significant effect on housing costs.

DETERMINATION REGARDING ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the Proposed Rule should be directed to Mr. Henry Nanjo, Chief Counsel, by telephone at (916) 274-3520, by e-mail at henry.nanjo@boe.ca.gov, or by mail at State Board of Equalization, Attn: Henry Nanjo, MIC: 121, P.O. Box 942879, Sacramento, CA 94279-0121.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Lawrence Lin, Regulations Coordinator, by telephone at (916) 274-3527, by e-mail at lawrence.lin@boe.ca.gov, or by mail at State Board of Equalization, Attn:

Lawrence Lin, MIC: 80, P.O. Box 942879, Sacramento, CA 94279-0080. Mr. Lin is the designated backup contact person to Mr. Nanjo.

WRITTEN COMMENT PERIOD

The written comment period ends at 10:00 a.m. on July 27, 2021, or as soon thereafter as the Board holds the public hearing regarding the Proposed Rule during the July 27, 2021 Board meeting. Written comments received by Mr. Lin at the postal address or email address provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the Proposed Rule. The Board will only consider written comments received by that time.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an underline version of proposed new Property Tax Rule 462.520 illustrating the express terms of the Proposed Rule and an initial statement of reasons for the adoption of the Proposed Rule, which includes the economic impact assessment required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the Proposed Rule is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed new Rule and the Initial Statement of Reasons are also available on the Board's website at www.boe.ca.gov.

SUBSTANTIALLY RELATED CHANGES PURSUANT TO GOVERNMENT CODE SECTION 11346.8

The Board may adopt the Proposed Rule with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the resulting regulation, with the change clearly indicated, available to the public for at least 15 days prior to adoption. The text of the resulting regulation will be mailed to those interested parties who commented on the original proposed regulation orally or in writing or who asked to be informed of such changes. The text of the resulting regulation will also be available to the public from Mr. Lin. The Board will consider written comments on the resulting regulation that are received prior to adoption.

AVAILABILITY OF FINAL STATEMENT OF REASONS

If the Board adopts the Proposed Rule, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's website at www.boe.ca.gov.

**Initial Statement of Reasons for
Proposed California Code of Regulations, Title 18,
Section 462.520, *Exclusion from Change in Ownership – Intergenerational Transfers***

**SPECIFIC PURPOSE, PROBLEM INTENDED TO BE ADDRESSED, NECESSITY,
AND ANTICIPATED BENEFITS**

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. The California Legislature codified the definition of "change in ownership" in Revenue and Taxation Code (RTC) section 60 and codified other provisions regarding whether a transfer of property results in a change in ownership or is excluded from the definition of "change in ownership" in RTC sections 61 through 69.5.

Relevant to this Proposed 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 transfers of real property between parents and children and Proposition 193, effective March 27, 1996, excluded from change in ownership 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) and (e) 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.

Under Government Code section 15606, subdivision (c), the Board is authorized to prescribe rules and regulations to govern local boards of equalization and assessment appeals boards when equalizing and county assessors when assessing. The Board proposes to adopt 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 Prop 19. In particular, Property Tax Rule 462.520 implements, interprets, and makes specific California Constitution, Article XIII A, section 2.1, subdivision (c), which provides that:

(c) Property Tax Fairness for Family Homes. Notwithstanding any other provision of this Constitution or any other law, beginning on and after February 16, 2021, the following shall apply:

(1) For purposes of subdivision (a) of Section 2, the terms “purchased” and “change in ownership” do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, as defined by the Legislature, if the property continues as the family home of the transferee. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. The new taxable value of the family home of the transferee shall be the sum of both of the following:

(A) The taxable value of the family home, subject to adjustment as authorized by subdivision (b) of Section 2, determined as of the date immediately prior to the date of the purchase by, or transfer to, the transferee.

(B) The applicable of the following amounts:

(i) If the assessed value of the family home upon purchase by, or transfer to, the transferee is less than the sum of the taxable value described in subparagraph (A) plus one million dollars (\$1,000,000), then zero dollars (\$0).

(ii) If the assessed value of the family home upon purchase by, or transfer to, the transferee is equal to or more than the sum of the taxable value described in subparagraph (A) plus one million dollars (\$1,000,000), an amount equal to the assessed value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the taxable value described in subparagraph (A) and one million dollars (\$1,000,000).

(2) Paragraph (1) shall also apply to a purchase or transfer of the family home between grandparents and their grandchildren if 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.

(3) Paragraphs (1) and (2) shall also apply to the purchase or transfer of a family farm. For purposes of this paragraph, any reference to a “family home” in paragraph (1) or (2) shall be deemed to instead refer to a “family farm.”

(4) Beginning on February 16, 2023, and every other February 16 thereafter, the State Board of Equalization shall adjust the one million dollar (\$1,000,000) amount described in paragraph (1) for inflation to reflect the percentage change in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency. The State Board of Equalization shall calculate and publish the adjustments required by this paragraph.

(5) (A) Subject to subparagraph (B), in order to receive the property tax benefit provided by this section for the purchase or transfer of a family home, the transferee shall claim the homeowner’s exemption or disabled veteran’s exemption at the time of the purchase or transfer of the family home.

(B) A transferee who fails to claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home may receive the property tax benefit provided by this section by claiming the homeowner's exemption or disabled veteran's exemption within one year of the purchase or transfer of the family home and shall be entitled to a refund of taxes previously owed or paid between the date of the transfer and the date the transferee claims the homeowner's exemption or disabled veteran's exemption.

Property Tax Rule 462.520 also implements, interprets, and makes specific Section 2.1, subdivision (e), which provides, in relevant part, that:

(e) For purposes of this section:

(1) "Disabled veteran's exemption" means the exemption authorized by subdivision (a) of Section 4 of Article XIII.

(2) "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.

(3) "Family home" has the same meaning as "principal residence," as that term is used in subdivision (k) of Section 3 of Article XIII.

(4) "Full cash value" has the same meaning as defined in subdivision (a) of Section 2.

(5) "Homeowner's exemption" means the exemption provided by subdivision (k) of Section 3 of Article XIII.

(6) "Natural disaster" means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(7) "Primary residence" means a residence eligible for either of the following:

(A) The homeowner's exemption.

(B) The disabled veteran's exemption.

(8) "Principal residence" as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

(9) "Replacement primary residence" has the same meaning as "replacement dwelling," as that term is defined in subdivision (a) of Section 2.

(10) “Taxable value” means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

Here, the relevant Proposition 19 provisions became effective as of February 16, 2021. The Board seeks to promulgate new Property Tax Rule 462.520 to provide clarity of the relevant provisions within Section 2.1 of article XIII A of the California Constitution. Specifically, the Board is proposing this rule to implement, interpret, and make specific subdivisions (c) and (e) of section 2.1 of article XIII A of the California Constitution. Proposed Rule 462.520, subdivision (a) makes explicit or provides clarification for specific provisions of Section 2.1, subdivision (c), including:

- That the transferred property must continue to be the principal residence or family farm of an eligible transferee or the exclusion is removed;
- That the transferred property must become the principal residence or family farm of a subsequent eligible transferee within one year of the initial eligible transferee in order for the exclusion to be retained;
- That a claim for a family farm can be filed separately from a claim for a principal residence;
- That the parent of a child must be deceased for the transfer of the property, between a grandparent and grandchild, to be excluded, but not the son-in-law or daughter-in-law of the grandparent;
- That there is no limit on the number of principal residences or family farms of a transferor that may be transferred to an eligible transferee and excluded; and
- Filing requirements.

Importantly, the Proposed Rule provides clarification for valuation of real property under the intergenerational transfer exclusion. In subdivision (b)(1), the Proposed Rule explains that a new base year value is calculated upon transfer of real property, but subdivision (b)(2) explains that if the qualifications for exclusion enumerated in subdivision (a) are met, the property will be assessed at its New Taxable Value as provided in Section 2.1, subdivisions (c)(1) to (c)(3) rather than at its new base year value. Subdivision (b)(3) explains the consequences to taxable value when the real property is no longer the principal residence of an eligible transferee. Examples 1 and 2 demonstrate the calculation of the new base year value of the property. The calculation of the New Taxable Value, which applies when the requirements for the intergenerational transfer exclusion have been met, is demonstrated under various scenarios in Examples 3 to 6.

The calculation of the assessed value when the intergenerational transfer exclusion is removed is explained in subdivision (d). Examples 7 and 8 illustrate the change in value when the eligible transferee no longer uses the property as a family home, when another eligible transferee moves in within one year and uses the property as a family home, when an eligible transferee transfers his interest to another eligible transferee, and when the transferor only transfers a portion of their property interest.

Subdivision (e) of the Proposed Rule provides definitions for terms used throughout the Rule and which are required for its implementation. It includes certain definitions (such as “family farm”,

and “homeowner’s exemption”) or clarifies other definitions (such as “full cash value” and “principal residence”) that are found within Section 2.1, subdivision (e).

The Proposed Rule is reasonably necessary to carry out the purpose of clarifying the relevant provisions of Proposition 19 so that individuals may more easily comply with and assessors may more easily administer Proposition 19. Further, the Proposed Rule is reasonably necessary for uniformity of administration amongst the 58 California Assessors.

DOCUMENTS RELIED UPON

The Board relied upon Assembly Constitutional Amendment Number 11 (ACA 11), legislative analyses for ACA 11, the Proposition 19 ballot pamphlet, the January 8, 2021 Chief Counsel Memorandum, the Letters to Assessors Nos. 2020/061 (dated Dec. 11, 2020), 2021/007 (dated Feb. 5, 2021), 2021/008 (dated Feb. 16, 2021), and 2021/010 (dated March 5, 2021), comments received in response to LTA 2021/010 (dated March 5, 2021), and related correspondence submitted for and comments made during the Board’s Discussion of the issues at its December 17, 2020, January 14-15, 2021, and February 11, 2021 meetings in deciding to propose the new rule described above.

ALTERNATIVES CONSIDERED

The Board considered whether to begin the formal rulemaking process to adopt the Proposed Property Tax Rule, to issue some form of informal guidance or, alternatively, whether to take no action at this time. The Board decided to begin the formal rulemaking process to adopt the Proposed Property Tax Rule at this time because the Board determined that the proposed new Property Tax Rule is reasonably necessary for the reasons set forth above.

The Board did not reject any reasonable alternative to the Proposed Property Tax Rule that would lessen any adverse impact the proposed action may have on small business or that would be less burdensome and equally effective in achieving the purpose of the proposed action. No reasonable alternative has been identified and brought to the Board’s attention that would lessen any adverse impact the proposed action may have on small business, be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed action.

INFORMATION REQUIRED BY GOVERNMENT CODE SECTION 11346.2, SUBDIVISION (b)(5) AND ECONOMIC IMPACT ASSESSMENT REQUIRED BY GOVERNMENT CODE SECTION 11346.3, SUBDIVISION (b), AND DETERMINATIONS AND ESTIMATE REQUIRED BY GOVERNMENT CODE 11346.5 SUBDIVISIONS (a)(5), (6), AND (8)

Section 2.1, subdivision (c) may, arguably, create a large impact for many Californians. This Proposed Property Tax Rule, however, merely implements, interprets, and makes specific Section 2.1, subdivision (c)’s provisions. Thus, the Board anticipates limited certain costs related

to the communication and implementation of this regulation. The Board anticipates a one-time absorbable cost to the State Board of Equalization of \$856 to update its website, issue letters regarding this rule to interested parties, and to train county assessors on how to assess property under this rule after the Proposed Rule is completed. Even though county assessors' offices will be required to process claims for the intergenerational transfer exclusion, they are already required to process the parent-child exclusion and grandparent-grandchild exclusion claims, and will be required to process the intergenerational transfer exclusion even in the absence of this Proposed Rule. The Board does not believe that the processing of the intergenerational transfer exclusion claims will lead to an ascertainable difference of claim volume for the county assessors' offices. In the long term, the Board believes that because the qualification for the intergenerational exclusion is narrower, the number of claims may decrease leading to decreased processing times for county assessors.

Since this regulation interprets, clarifies, and implements Section 2.1, subdivision (c), which provides for a property tax exclusion for transfers of family homes or family farms between parents and their children and grandparents and their grandchildren, it does not impact the majority of small businesses as defined in Government Code section 11346.3, subdivision (b)(4)(B), except for businesses involving family farm property owned by individuals. However, the primary economic impact would not be on the business operations of the family farm but rather on considerations to whom the family farm will be transferred. Further, the majority of any such impact stem from the provisions of Section 2.1, subdivision (c), not this proposed regulation. Any impact that may exist on family farms as a result of this rule is indeterminable since it is not possible to estimate the effect of what a family farm owner might do in the future vis-a-vis their family farm operations knowing now that they must transfer the family farm to an eligible transferee to qualify for the exclusion.

This regulation is not expected to create or eliminate jobs within the state. The Board likewise does not expect any creation of new business or elimination of existing businesses within the state, nor does it expect an expansion of businesses currently doing business within the state. The Board expects that the adoption of the Proposed Rule will not affect the benefits of the rule to the health and welfare of California residents, worker safety, or the state's environment.

The forgoing information also provides the factual basis for the Board's initial determination that the adoption of the Proposed Rule will not have a significant adverse economic impact on business.

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 Section 60, 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) 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 for any other necessary adjustment, including 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 factored base year 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 factored base year 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 factored base year 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).

(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.

(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) "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.

(11) "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.

(12) "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.

(13) "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.

(14) "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) 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.

(2) Except as provided in paragraph (3), 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 9: *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 9-1 *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 10: 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 11: 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 12: Exclusion Form Filed Three Years After 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.

(3) If the principal residence 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 (2) 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 13: 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.

(4) For purposes of this subdivision, 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.