State of California

Board of Equalization
Property and Special Taxes Department

Memorandum

To: Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner (Ret.), Second District
Honorable John Chiang, State Controller

Date: December 7, 2012

From: David J. Gau, Deputy Director
Property and Special Taxes Department

Subject: ***Board Meeting, December 2012—Item N—Administrative Session***
Form BOE-58-H, Affidavit of Cotenant Residency

I am requesting approval of the attached form BOE-58-H, *Affidavit of Cotenant Residency.* Assembly Bill 1700, approved by the Governor on September 30, 2012, provides for a change in ownership exclusion from property taxes for a transfer of an interest in real property between cotenants that takes effect upon the death of one cotenant under the following circumstances:

- The transfer is solely by and between two individuals who together own 100 percent of real property in joint tenancy or tenancy in common;
- As a result of the death of one cotenant, the deceased cotenant's interest in the real property is transferred to the surviving cotenant, resulting in the surviving cotenant owning 100 percent of the real property;
- For the one-year period immediately preceding the death of one cotenant, both of the cotenants were owners of record and both continuously resided in the real property;
- The real property was the principal residence of both cotenants immediately preceding the deceased cotenant's death; and
- The transfer of real property occurs on or after January 1, 2013.

Revenue and Taxation Code section 62.3 was added by Assembly Bill 1700 and requires that the surviving cotenant must sign, under penalty of perjury, an affidavit affirming that he or she continuously resided in the real property with the deceased cotenant for the one-year period immediately preceding the date of death.

To implement the affidavit provisions of section 62.3, staff developed form BOE-58-H, *Affidavit of Cotenant Residency.* Since this is a new statutory property tax exclusion, it is possible that unforeseen issues may arise that will warrant further revisions to the form. Property Taxes staff will monitor the implementation of the cotenancy exclusion and use of the form, and will work with the California Assessors' Association and other applicable interested parties regarding any further warranted revisions to the form.

Pursuant to the Board's authority under Government Code section 15606, subdivision (d), which requires the Board to prescribe and enforce the use of all forms for the assessment of property for taxation, I request that this item be placed on the Board's December 2012 Administrative Session Agenda for approval.

DJG:sk
Attachment

cc: Ms. Joann Richmond

Approved:

Cynthia Bridges
Executive Director

Board Approved:

Joann Richmond, Chief
Board Proceedings Division

BOE-58-H (12/12)

AFFIDAVIT OF COTENANT RESIDENCY

NAME AND MAILING ADDRESS
(Make necessary corrections to the printed name and mailing address)

Under the provisions of Revenue and Taxation Code section 62.3, if certain conditions are met, a transfer of a cotenancy interest in real property from one cotenant to the other cotenant that takes effect upon the death of one cotenant is not a change in ownership. This applies to transfers that occur on or after January 1, 2013.

The change in ownership exclusion for a transfer of an interest in real property between cotenants that takes effect upon the death of one cotenant applies as long as all of the following are met:

- The transfer is solely by and between two individuals who together own 100 percent of the real property in joint tenancy or tenancy in common.
- As a result of the death of the transferor cotenant, the deceased cotenant's interest in the real property is transferred to the surviving cotenant, resulting in the surviving cotenant owning 100 percent of the real property, and thereby terminating the cotenancy.
- For the one-year period immediately preceding the death of the transferor cotenant, both of the cotenants were owners of record.
- The real property was the principal residence of both cotenants immediately preceding the transferor cotenant's death.
- For the one-year period immediately preceding the death of the transferor cotenant, both of the cotenants continuously resided in the real property.
- The surviving cotenant must sign, under penalty of perjury, an affidavit affirming that he or she continuously resided in the real property with the deceased cotenant for the one-year period immediately preceding the date of death.

NAME OF SURVIVING COTENANT	
NAME OF DECEASED COTENANT	DATE OF DEATH
STREET ADDRESS OF REAL PROPERTY	ASSESSOR'S PARCEL NUMBER (APN)
CITY, STATE, ZIP CODE	

Property was eligible for: ☐ Homeowners' Exemption ☐ Disabled Veterans' Exemption

Disposition of real property:

☐ Affidavit of death of joint tenant

☐ Decree of distribution pursuant to will or intestate succession

☐ Action of trustee pursuant to terms of trust *(Attach a complete copy of trust and all amendments)*

1. Was this real property the principal residence of the deceased cotenant the one-year period prior to the date of death? ☐ Yes ☐ No
2. Was this real property the principal residence of the surviving cotenant the one-year period prior to the date of death? ☐ Yes ☐ No
3. Are there any other beneficiaries of the real property? ☐ Yes ☐ No

   If yes, please list other beneficiaries: _____

CERTIFICATION OF COTENANT

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true and correct to the best of my knowledge and that I continuously resided with the decedent in this real property for the one-year period immediately preceding the decedent's date of death.

SIGNATURE OF SURVIVING COTENANT ▶	DATE
EMAIL ADDRESS	TELEPHONE NUMBER

THIS DOCUMENT IS SUBJECT TO PUBLIC INSPECTION