STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Secretary

February 9, 1982

82/21

TO COUNTY ASSESSORS, COUNTY COUNSELS,
ASSESSMENT APPEALS BOARDS, AND
OTHER INTERESTED PARTIES:

PROPERTY TAXES RULE 462

Enclosed is a copy of a notice of public hearing to be held March 30, 1982, at 2:00 p.m., in Room 102, 1020 N Street, Sacramento, California, on proposed amendments to Rule 462, Change in Ownership.

The proposed amendments to Rule 462 cause the rule to conform to newly enacted statutes relating to changes to the definitions to change in ownership.

Written comments for the Board's consideration, or requests to present testimony at the public hearing should be directed to me at the above address. Questions regarding the content of the proposed amendments to the rule should be directed to Glenn Rigby, Assistant Chief Counsel, Property Taxes, (916) 445-4588.

Sincerely,

Janice Masterton

Janice Masterton
Assistant to Executive Secretary

JM:ms
Enclosures

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Sections 60-67 of the Revenue and Taxation Code, proposes to amend Regulation 462 in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on March 30, 1982. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: The reason for this proposed amendment is primarily to cause the rule to conform to newly enacted statutes relating to the following changes to the definitions to change in ownership:

(1) The exclusion relating to transfers between co-owners was extended from March 1, 1975 to March 1, 1980, to transfers which occurred between March 1, 1975 and March 1, 1981.

(2) The rebuttable presumption concerning persons owning property as joint tenants on March 1, 1975 was re-enacted.

(3) The distribution of property held by a legal entity to spouses as the result of a divorce or legal separation was excluded from the definition of change in ownership.

(4) Excludes transfers of property between certain enumerated corporations provided the transferees and transferors are regulated by rules or regulations or cannons of the same religious denomination.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by March 30, 1982; written statements or arguments are requested by March 10, 1982.

STATEMENT OF REASONS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, which statement is available to the public upon request.

The State Board of Equalization upon its own motion or at the instance of any interested person may adopt the changes proposed without further notice on or after March 30, 1982.

Dated: February 3, 1982

STATE BOARD OF EQUALIZATION

Douglas D. Bell
Executive Secretary

Rule 462. CHANGE IN OWNERSHIP.

Reference: Sections 60-67, Revenue and Taxation Code.

(a) GENERAL.

(1) There shall be a reappraisal of real property as of the date of a change in ownership of that property. The reappraisal will establish a new base year full value and will be enrolled on the lien date following the change in ownership.

(2) A "change in ownership" in real property occurs when there is a transfer of a present interest in the property, and a transfer of the right to beneficial use thereof, the value of which is substantially equal to the value of the fee interest. Every transfer of property qualified as a "change in ownership" shall be so regarded whether the transfer is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement (except as provided in (1) (3) for interspousal transfers), or any other means. A change in the name of an owner of property not involving a change in the right to beneficial use is excluded from the term "transfer" as used in this section.

(b) TENANCIES IN COMMON.

(1) Except as is otherwise provided in subdivision (2), the creation, transfer, or termination of a tenancy in common interest is a change in ownership of the undivided interest transferred.

(2) Exclusions:

(A) The transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change in the proportional interests of the co-owners, such as:

(i) a partition,

(ii) a transfer from a co-tenancy to a joint tenancy, or

(iii) a transfer from a co-tenancy to a legal entity which results solely in a change in the method of holding title and in which the proportional ownership interests in the property remain the same after the transfer. (Such transferees shall be considered to be the "original co-owners" of the property for purposes of determining whether a change in ownership has occurred upon the subsequent transfer(s) of the ownership interests in the property.)

Example: A and B own a parcel of real property as tenants in common each owning a 50% interest. They transfer the property to a newly formed corporation each receiving 50% of the stock. Such a transfer would not be regarded as a change in ownership.

(B) The transfer was between or among co-owners of property which was:

(i) held by such co-owners for all or part of the period between March 1, 1975, and March 1, 1980, and

(ii) the property was eligible for the homeowners' exemption during the entire period of co-ownership.

(C) The transfer is of an undivided interest(s) of less than five percent of the value of the total property and has a value of less than $10,000; provided, however, that transfers of such interests during any one assessment year (the period from March 1 through the last day in February of the following year) shall be accumulated for the purpose of determining the percentage interest and value transferred. When the accumulated interests transferred during any assessment year equals or exceeds five percent of the value of the total property or $10,000, exclusive of any interest transferred to a spouse or other exempt transfer, only that percentage of the property represented by the accumulated interests shall be reappraised.

(D) The transfer creates or terminates a co-owner's interest between spouses.

(E) The transfer between spouses or former spouses terminates a tenancy in common or a community property interest in connection with a death or a property settlement agreement or decree of dissolution of a marriage or of a legal separation.

(c) JOINT TENANCIES.

(1) Except as is otherwise provided in subdivision (2), the creation, transfer, or termination of a joint tenancy interest is a change in ownership of the interest transferred.

(A) Examples:

(i) The transfer from A and B, as joint tenants, to C and D, as joint tenants, is a change in ownership of the entire property.

(ii) The subsequent transfer from C and D, as joint tenants, to C, as sole owner, is a change in ownership of 50% of the property.

(2) Exclusions:

(A) The transfer creates or transfers any joint tenancy interest and after such creation or transfer, the transferor(s) is one of the joint tenants.

Such transferor(s) who is also a transferee(s) in this situation is considered to be an "original transferor" for purposes of determining the property to be reappraised upon subsequent transfers. A spouse of an original transferor shall also be considered to be an original transferor. All other initial and subsequent joint tenants are considered to be "other than original transferors".

Example: C and D, as joint tenants, transfer to C, D, E, and F, as joint tenants. No change in ownership because C and D, the transferors, are included among the transferees and are, therefore, "original transferors". (E and F are "other than original transferors".)

(B) The transfer terminates an original transferor's interest in a joint tenancy described in (A) and the interest vests in whole or in part in the remaining original transferor(s). For the 1980-81 assessment year and thereafter, any original transferor's interest which was previously reappraised under Section 65(a) (1) of the Revenue and Taxation Code in effect prior to September 26, 1980, shall be reversed if it does not constitute a change in ownership in accordance with this subdivision.

Example: Following the example set forth in (A) (above), C dies or grants his interest to the remaining joint tenants, D, E, and F. No change in ownership because D, an original transferor, remains as a joint tenant.

Upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the interest then transferred and all other interests in the property held by all transferors.

(C) The transfer terminates a joint tenancy interest held by other than an original transferor in a joint tenancy described in (A) and the interest is transferred either:

(i) to an original transferor(s), or

(ii) to all the remaining joint tenants, provided that one of the remaining joint tenants is an original transferor.

Example: Following the example set forth in (B) (above), E, not an original transferor, grants his interest to D and F. No change in ownership because E grants to the remaining joint tenants, D and F, and D is an original transferor.

(D) For other than joint tenancies described in (A), the transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change in the proportional interests of the co-owners, such as:

(i) a transfer terminating the joint tenancy to separate ownerships of the property in equal interests.

(ii) a transfer terminating the joint tenancy and creating a tenancy in common of equal interests.

(iii) a transfer terminating a joint tenancy to a legal entity when the interests of the transferors and transferees remain the same after the transfer. (Such transferees shall be considered to be the "original co-owners" for purposes of determining whether a change in ownership occurs upon the subsequent transfer(s) of the ownership interests in the property.)

(E) The transfer occurred between 3/1/75 and 3/1/81 and was between or among co-owners of property which was:

(i) held by such co-owners for all or part of the period between March 1, 1975, and March 1, ~~1980~~, 1981, and

(ii) the property was eligible for the homeowners' exemption during the entire period of co-ownership.

(F) The transfer creates or terminates a joint tenant's interest between spouses.

(G) The transfer terminates a joint tenancy or a community property interest between spouses or former spouses in connection with a death or a property settlement agreement or decree of dissolution of a marriage or of a legal separation.

(H) The transfer is of a joint tenancy interest(s) of less than five percent of the value of the total property and has a value of less than $10,000; provided, however, that transfers of such interests during any one assessment year (the period from March 1 through the last day in February of the following year) shall be accumulated for the purpose of determining the percentage interest and value transferred. When the accumulated interests transferred during any assessment year equals or exceeds five percent of the value of the total property or $10,000, exclusive of any interest transferred to a spouse or other exempt transfer, only that percentage of the property represented by the accumulated interests shall be reappraised.

(3) For purposes of this section, for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding in interest in property as of March 1, 1975, shall be an "original transferor." This presumption is not applicable to joint tenancies created after March 1, 1975.

(d) LIFE ESTATES AND ESTATES FOR YEARS.

(1) Life estates. The creation of a life estate in real property is a change in ownership at the time of transfer unless the instrument creating the life estate reserves such estate in the transfer or the transferor's spouse. However, the subsequent transfer of such a life estate by the transferor or the transferor's spouse to a third party is a change in ownership. Upon termination of such a reserved life estate, the vesting a right to possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse) is a change in ownership.

(2) Estate for years. The creation of an estate for years for a term of 35 years or more in real property is a change in ownership at the time of transfer unless the instrument creating the estate for years reserves such estate in the transferor or the transferor's spouse. However, the subsequent transfer of such an estate for years by the transferor or the transferor's spouse to a third party is a change in ownership. Upon the termination of a reserved estate for years for any term, the vesting of the right to possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse) is a change in ownership. The creation or transfer of an estate for years for less than 35 years is not a change in ownership.

(e) POSSESSORY INTERESTS. The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term is a change in ownership except when the interest, whether an estate for years or an estate for life, is created by a reservation in an instrument deeding the property to a tax exempt governmental entity.

(f) LEASES.

(1) The following transfers of either the lessee's interest or the lessor's interest in taxable real property constitute a change in ownership of such real property:

(A) Lessee's Interest:

(i) the creation of a leasehold interest in real property for a term of 35 years or more.

(ii) the transfer, sublease, or assignment of a leasehold interest with a remaining term of 35 years or more.

(iii) the termination of a leasehold interest which had an original term of 35 years or more.

(B) Lessor's Interest:

(i). The transfer of a lessor's interest in taxable real property subject to a lease with a remaining term of less than 35 years.

(ii) The transfer of a lessor's interest in taxable real property subject to multiple leases, one or more of which is for a remaining term of less than 35 years and one or more of which is for a remaining term of 35 years or more, in which case there is a change in ownership of the portion of the property subject to the lease(s) with a remaining term of less than 35 years.

(2) The following transfers of either the lessee's interest or the lessor's interest in taxable real property do not constitute a change in ownership of such real property.

(A) Lessee's interest:

(i) The creation of a leasehold interest in real property for a term of less than 35 years.

(ii) The transfer, sublease, or assignment of a leasehold interest with a remaining term of less than 35 years (regardless of the original term of the lease).

(iii) The termination of a leasehold interest which had an original term of less than 35 years.

(B) Lessor's interest:

(i) The transfer of a lessor's interest in real property subject to a lease with a remaining term of 35 years or more, whether to the lessee or another party.

(3) Once a change in ownership of taxable real property subject to a lease has been deemed to have occurred, the entire property subject to the lease is reappraised (i.e., the value of both the lessee's interest and the reversion).

(4) The calculation of the term of a lease for all purposes of this section shall include written renewal options.

(5) It shall be conclusively presumed that all homes (other than mobilehomes subject to Part 13 of Division 1 of the Revenue and Taxation Code) eligible for the homeowners' exemption which are on leased land have written renewal options on the lease of such land of at least 35 years, whether or not such renewal options in fact exist in any contract or agreement.

(g) FORECLOSURE.

(1) Mortgage or deed of trust foreclosed by judicial action is a sufficient change in ownership only:

(A) After the period of redemption has passed and property has not been redeemed, or

(B) Upon redemption when title vests in the original debtor's successor in interest.

(2) Deed of trust foreclosed by trustee's sale shall cause a reappraisal as of the date the right of possession vests in the purchaser.

(3) A transfer by a trustor in lieu of a trustee's foreclosure sale constitutes a change in ownership.

(h) **TRANSFERS RESULTING FROM TAX DELINQUENCY.** Transfers by the sale to or deed to the state and redemption by the former assessee shall not be considered as changes in ownership. However, a sale by the state whether to the original owner or to a new owner is a change in ownership requiring reappraisal as of the date of the sale.

(i) **TRUSTS.**

(1) Creation. Except as is otherwise provided in subdivision (2) the transfer by the trustor, or any other person, of real property into a trust is a change in ownership of such property at the time of the transfer.

(2) Exceptions. A transfer to a trust is not a change in ownership upon the creation of or transfer to a trust if:

(A) Trustor-Transferor Beneficiary Trusts. The trustor-transferor is the sole present beneficiary of the trust; provided, however, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor are present beneficiaries of the trust.

(B) Revocable Trusts. The transfer of real property or an ownership interest(s) in a legal entity by the trustor(s) to a trust which is revocable by the trustor(s); provided, however, a change in ownership does occur at the time the revocable trust becomes irrevocable unless the trustor-transferor remains or becomes the sole present beneficiary.

(C) Trustor Reversion Trusts. The trustor-transferor retains the reversion, and the beneficial interest(s) of person(s) other than the trustor-transferor does not exceed 12 years in duration.

(D) Interspousal Trusts. The exemption afforded interspousal transfers is applicable; provided, however, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor's spouse are beneficiaries of the trust.

(E) Proportional Interests. The transfer is to a trust which results in the proportional interests of the beneficiaries in the property remaining the same before and after the transfer.

(F) Other Trusts. The transfer is from one trust to another and meets the requirements of (A), (B), (C), (D), or (E).

(3) Termination. Except as is otherwise provided in subdivision (4), the termination of a trust, or portion thereof, constitutes a change in ownership at the time of the termination of the trust.

(4) Exceptions. A transfer resulting from the termination of a trust is not a change in ownership if:

(A) Prior Reappraisal. Termination results in the distribution of trust property according to the terms of the trust to a person or entity who received a present interest (either use of or income from the property) causing a reappraisal when the trust was created or when it became irrevocable; provided, however, another change in ownership also occurs when the remainder or reversionary interest becomes possessory if the holder of that interest is a person or entity other than the present beneficiary.

(B) Revocable Trusts. Termination results from the trustor-transferor's exercise of the power of revocation and the property is transferred by the trustee back to the trustor-transferor.

(C) Trustor Reversion Trusts. The trust term did not exceed 12 years in duration and, on termination, the property reverts to the trustor-transferor.

(D) Interspousal Trusts. The exemption afforded interspousal transfers is applicable.

(E) Proportional Interests. Termination results in the transfer to the beneficiaries who receive the same proportional interests in the property as they held before the termination of the trust.

(F) Other Trusts. Termination results in the transfer from one trust to another and meets the requirements of (A), (B), (C), (D), or (E) of subdivision (2).

(j) LEGAL ENTITIES.

(1) Transfers of property to and by legal entities. Except as is otherwise provided in subdivision (2), the transfer of any interest in real property to a corporation, partnership, or other legal entity is a change in ownership of such real property transferred.

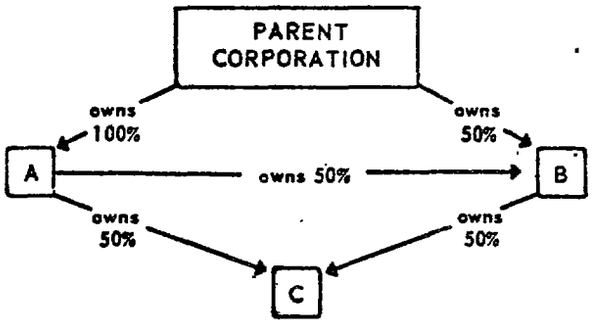
(2) Exclusions:

(A) Transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization if:

(i) the voting stock of the corporation making the transfer and the voting stock of the transferee corporation are each owned 100 percent by a corporation related by voting stock ownership to a common parent, and

(ii) the common parent corporation owns directly 100 percent of the voting stock of at least one corporation in the chain(s) of related corporations.

SIMPLE EXAMPLE



A transfer of real property by P, A, B, or C to any of the other three corporations would not be a change in ownership.

Example: A transfer by C (wholly owned by A and B) to B (wholly owned by A and P) would not be a change in ownership because of those relationships and because P owns 100% of A.

If real property is transferred between non-affiliated corporations, only the property transferred or the property of the acquired corporation shall be deemed to have undergone a change in ownership.

(B) Transfers of real property between separate legal entities or by an individual(s) to a legal entity (or vice versa), which result solely in a change in the method of holding title and in which the proportional ownership interests in the property remain the same after the transfer. (The holders of the ownership interests in the transferee legal entity, whether such interests are represented by stock, partnership shares, or other types of ownership interests, shall be defined as "original co-owners" for purposes of determining whether a change in ownership has occurred upon the subsequent transfer(s) of the ownership interests in the legal entity.)

Examples:

(i) A transfer of real property from A and B, as equal co-tenants, to Corporation X where A and B each take back 50 percent of the stock. No change in ownership.

(ii) Same as (i) above, except A and B take back 49 percent of the stock and C receives 2 percent of the stock. Change in ownership of the entire property.

(iii) A transfers Whiteacre to Corporation X and B transfers Blackacre (equal in value to Whiteacre) to Corporation X. A and B each take back 50 percent of the stock. Change in ownership of 100 percent of both Whiteacre and Blackacre.

(iv) Corporation X ownes Blackacre and Whiteacre (both are of equal value). A & B each own 50% of Corporation X's shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of 100% of both Blackacre and Whiteacre.

~~(iv)~~ (v) A transfer of real property from Corporation X to its sole shareholder A. No change in ownership.

(3) Transfers of ownership interests in legal enti es. Except as is otherwise provided in subdivision (4), the purchase or transfer of corporate stock, partnership shares, or ownership interests in other legal entities is not a change in ownership of the real property of the ' gal entity.

(4) Exceptions:

(A) When any corporation, partnership, other legal entity or any person:

(i) obtains direct or indirect ownership or control of more than 50 percent of the voting stock in any corporation which is not a member of the same affiliated group of corporations as described in (2) (A), or

(ii) obtains direct or indirect ownership of more than 50 percent of the total interest in both partnership capital and profits, or

(iii) obtains direct or indirect ownership or control of more than 50 percent of the total ownership interest in any other legal entity.

Upon the acquisition of such direct or indirect ownership or control, all of the property owned directly or indirectly by the acquired legal entity is deemed to have undergone a change in ownership.

(B) When real property transferred to a corporation, partnership or other legal entity is excluded from a change in ownership pursuant to (2) (B) and the "original co-owners" subsequently transfer in one or more transactions, more than 50 percent of the total control or ownership interests in the entity as defined in (4) (A). For purposes of determining whether more than 50 percent of the total control or ownership interests in the entity has been transferred, transfers of such interests by the "original co-owners" shall be cumulated beginning with the time of the first ownership interest transfer.

Such a change in ownership requires the reappraisal of the same percentage of the legal entity's real property as the percentage of the ownership interests in the legal entity transferred by the "original co-owners".

For purposes of this subdivision, persons holding ownership interests in the legal entity immediately following the reappraisal shall be considered the new "original co-owners".

(C) When the stock transferred in a cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code, conveys the exclusive right to occupancy of all or part of the corporate property, unless:

(i) the cooperative was financed under one mortgage which was insured under Sections 213, 221(d) (3), 221(d) (4), or 236 of the National Housing Act, as amended, or was financed or assisted pursuant to Sections 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or was financed by a direct loan from the California Housing Finance Agency, and

(ii) the regulatory and occupancy agreements were approved by the respective insuring or lending agency, and

(iii) the transfer is from the housing cooperative to a person or family qualifying for purchase by reason of limited income.

(5) Partnership.

(A) Except as provided in (2) (B), when real property is contributed to a partnership or is acquired, by purchase or otherwise, by the partnership there is a change in ownership of such real property, regardless of whether the title to the property is held in the name of the partnership or in the name of the partner(s), with or without reference to the partnership. Except as provided by (2) (B), the transfer of any interest in real property by a partnership to a partner or any other person or entity constitutes a change in ownership.

(B) Except as provided in (4) (A) (ii) and (4) (B), the addition or deletion of partners in a continuing partnership does not constitute a change in ownership of partnership property.

(k) MISCELLANEOUS ARRANGEMENTS.

(1) Security transactions. There are transactions that may be interpreted to be either a conveyance of the property or a mere security interest therein, depending on the facts. There is a rebuttable presumption under Civil Code Section 1105 that a conveyance is what it is purported to be, a transfer of property. In overcoming this presumption, consideration may be given to, but not limited to, the following factors:

(A) The existence of a debt or promise to pay.

(B) The principal amount to be paid for reconveyance is the same, or substantially the same, as the amount paid for the original deed.

(C) A great inequality between the value of the property and the price alleged to have been paid.

(D) The grantor remaining in possession with the right to reconveyance on payment of the debt; and

(E) A written agreement between the parties to reconvey the property upon payment of the debt. The best evidence of the existence of such factors shall be a judicial finding or order. Proof may also be made by declarations under penalty of perjury (or affidavits) accompanied by such written evidence as may reasonably be available, such as written agreements, cancelled checks, insurance policies, and tax returns.

(2) Deed presumption. When more than one person's name appears on a deed, there is a rebuttable presumption that all persons listed on the deed have ownership interests in property. When the presumption is not rebutted, any transfer between the parties will be a change in ownership. In overcoming this presumption, consideration may be given to, but not limited to, the following factors:

(A) The existence of a written document executed prior to or at the time of the conveyance in which all parties agree that one or more of the parties do not have equitable ownership interests.

(B) The monetary contribution of each party. The best evidence of the existence of such factors shall be a judicial finding or order. Proof may also be made by declarations under penalty of perjury (or affidavits) accompanied by such written evidence as may reasonably be available, such as written agreements, cancelled checks, insurance policies, and tax returns.

(3) Holding agreements. A holding agreement is an agreement between an owner of the property, hereafter called a principal, and another entity, usually a title company, that the principal will convey property to the other entity merely for the purposes of holding title. The entity receiving title can have no discretionary duties but must act only on explicit instructions of the principal. The transfer of property to the holder of title pursuant to a holding agreement is not a change in ownership. There shall be no change in ownership when the entity holding title pursuant to a holding agreement conveys the property back to the principal.

(A) There shall be a change in ownership for property subject to a holding agreement when there is a change of principals.

(B) There shall be a change in ownership of property subject to a holding agreement if the property is conveyed by the holder of title to a person or entity other than the principal.

(4) Sale and leaseback. A sale of real property, coupled with a leaseback which is not reserved to the transferor by the terms of the sale instrument, constitutes a change in ownership of such property; provided however, a sale and leaseback transaction shall be rebuttably presumed to be a non-reappraisable financing transaction upon proper written showing by the property owner, such as a written opinion or ruling by the Franchise Tax Board and/or the Internal Revenue Service, to the effect that the transaction is considered to be a financing transaction for state and/or federal income tax purposes.

(l) **INTERSPOUSAL TRANSFERS.** Notwithstanding any other provision of Sections 460 through 471 of this code, a change in ownership shall not include any interspousal transfer, including, but not limited to:

(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,

(2) Transfers which take effect upon the death of a spouse,

(3) Transfers to a spouse or former spouse in connection with a property settlement agreement, including post-dissolution amendment thereto, or decree of dissolution of a marriage or legal separation, or

(4) The creation, transfer, or termination, solely between spouses, of any co-owner's interest.

(5) The distribution of property of a corporation, partnership, or other legal entity to a spouse or former spouse having an ownership interest in the 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 legal separation.

(m) **THE FOLLOWING TRANSFERS DO NOT CONSTITUTE A CHANGE OF OWNERSHIP:**

(1) The transfer of bare legal title, e.g.,

(A) Any transfer to an existing assessee for the purpose of perfecting title to the property.

(B) Any transfer resulting in the creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession or profits.

(2) Any transfer caused by the substitution of a trustee.

(3) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(4) Any contribution of real property to an employee benefit plan or the creation, vesting, transfer, distribution, or termination of a participant's or beneficiary's interest in such a plan. The terms used herein shall have the meaning ascribed to them in the Employee Retirement Income Security Act of 1974, which is codified as United States Code annotated, Title 29, Section 1002. (The term "any contribution" as used in Section 66 (b) of the Revenue and Taxation Code and this section means only those original contributions of real property made to an employee benefit plan by an employer, a group of employees, or both, without any consideration.)

(5) Any transfer of title between an individual and a legal entity or between legal entities, such as from a co-tenancy to a partnership, a partnership to a corporation, a trust to a co-tenancy, or an individual to a legal entity, which results solely in a change in the method of holding title and in which the proportional interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, remain the same after the transfer. (Such transferees shall be considered to be the "original co-owners" of the property for purposes of determining whether a change in ownership has occurred upon the subsequent transfer(s) of the ownership interests in the property.)

(6) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of the aforementioned corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the trasnferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(n) DATE OF CHANGE IN OWNERSHIP. For purposes of reappraising real property as of the date of change in ownership of real property, the following dates shall be used:

(1) Sales.

(A) Where the transfer is evidenced by recordation of a deed or other document, the date of recordation shall be rebuttably presumed to be the date of ownership change. This presumption may be rebutted by evidence proving a different date to be the date all parties' instructions have met in escrow or the date the agreement of the parties became specifically enforceable.

(B) Where the transfer is accomplished by an unrecorded document, the date of the transfer document shall be rebuttably presumed to be the date of ownership change. This presumption may be rebutted by evidence proving a different date to be the date all parties' instructions have met in escrow or the date the agreement of the parties became specifically enforceable.

(2) Leases. The date the lessee has the right to possession.

(3) Inheritance (by will or intestate succession). The date of death of the decedent.

(4) Trusts.

(A) Revocable. The date the trust becomes irrevocable.

(B) Irrevocable. The date property is placed in trust.

NOTE: Refer to subsection (i) for trust transfer exemptions.

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 (a), (b) (5), (e) (3), (f) (2), (h) (2) (C), (j) (1) (B), and (j) (2); renumbered (b) (6) to (b) (7); and adopted (b) (6), and (h) (2) (D).
Amended May 5, 1981, effective August 12, 1981.