



STATE BOARD OF EQUALIZATION

BOARD PROCEEDINGS DIVISION (MIC:80)
450 N STREET, SACRAMENTO, CALIFORNIA
(P O. BOX 942879, SACRAMENTO, CA 94279-0080)
Mr. Augusta (916) 445-6493

JOHAN KLEHS
First District, Hayward

DEAN F. ANDAL
Second District, Stockton

ERNEST J. DRONENBURG, JR.
Third District, San Diego

KATHLEEN CONNELL
Controller, Sacramento

JOHN CHIANG
Acting Member
Fourth District, Los Angeles

E. L. SORESENSEN, JR.
Executive Director

No. 98/20

March 20, 1998

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

PROPERTY TAX RULES 462.001, 462.020, 462.080,
462.140, 462.160, 462.200, 462.220, 462.240, AND 462.260
CHANGE IN OWNERSHIP

Following a scheduled public hearing on February 4, 1997, the State Board of Equalization adopted amendments to Property Tax Rules 462.001, 462.080, 462.140, 462.200, and 462.260, Change in Ownership. The rules as amended became effective June 11, 1997.

Following a scheduled public hearing on April 9, 1997, the State Board of Equalization adopted amendments to Property Tax Rules 462.020, 462.160, 462.220, and 462.240, Change in Ownership. These rules as amended became effective February 20, 1998.

Enclosed for your information is a final printed copy of the regulation.

If you have any questions regarding the content of these rules, please contact Mr. Lawrence A. Augusta, Assistant Chief Counsel, at (916) 445-6493. If you wish extra copies of the rules, please write to State Board of Equalization, Supply Publications, 3920 West Capitol Avenue, West Sacramento, CA 95691.

Sincerely,

Janice Masterton, Chief
Board Proceedings Division

JM:MAS

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 462.001. CHANGE IN OWNERSHIP - GENERAL

Reference: Sections 60-67, Revenue and Taxation Code.
Section 15606, Government Code.

A "change in ownership" in real property occurs when there is a transfer of a present interest in the property, including the 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, 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.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(a).
Amended February 4, 1997, effective June 11, 1997.

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 462.020. CHANGE IN OWNERSHIP - TENANCIES IN COMMON.

Reference: Sections 60, 61, 62, 63, 63.1, 65, 65.1, and 67, Revenue and Taxation Code
Section 15606, Government Code.

(a) **General Rule.** The creation, transfer, or termination of a tenancy in common interest is a change in ownership of the undivided interest transferred.

(b) **EXCEPTIONS.** The following transfers do not constitute a change in ownership:

(1) 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 ownership interests of the co-owners, such as:

(A) a partition,

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

(C) 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 transfers of the ownership interests in the property.)

Example 1: 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.

(2) The transfer is of an undivided interest 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 January 1 through December 31) shall be accumulated for the purpose of determining the percentage interest and value transferred. When the value of the accumulated interests transferred during any assessment year equals or exceeds five percent of the value of the total property or \$10,000, then that percentage of the property represented by the transferred accumulated interests shall be reappraised. For purposes of this subsection, the "accumulated interests transferred" shall not include any transfer of an interest that is otherwise excluded from change in ownership.

Example 2: At the end of the assessment year the value of the accumulated interests transferred equals 3 percent of the value of the total property and the dollar value of these interests is \$12,000. There will be a reappraisal of the transferred accumulated interests because their value exceeds \$10,000.

Example 3: At the end of the assessment year the value of the accumulated interests transferred equals 7 percent of the value of the total property and the dollar value of these interests is \$9,000. There will be a reappraisal of the transferred accumulated interests because they exceed 5 percent of the value of the total property.

RULE 462.020. (Continued)

(3) The transfer is one to which the interspousal exclusion applies.

(4) The transfer is one to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been filed as required by law.

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 May 5, 1981, effective August 12, 1981.

Amended March 31, 1982, effective June 10, 1982.

Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(b).

Amended October 9, 1997, effective February 20, 1998.

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 462.080. CHANGE IN OWNERSHIP - POSSESSORY INTERESTS.

Reference: Sections 60, 61, 62 and 67, Revenue and Taxation Code.
Section 15606, Government Code.

(a) General Rule. The creation, renewal, extension, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term is a change in ownership. "Renewal" and "extension" do not include the granting of an option to renew or extend an existing agreement pursuant to which the term of possession of the existing agreement would, upon exercise of the option, be lengthened, whether the option is granted in the original agreement or subsequent thereto. "Assignment" of a possessory interest means the transfer of all rights held by a transferor in a possessory interest.

(b) EXCEPTIONS. The following do not constitute changes in ownership of taxable possessory interests:

(1) An interest, whether an estate for years or an estate for life, created by a reservation in an instrument deeding the property to a tax exempt governmental entity.

(2) Any renewal or extension of a taxable possessory interest during the reasonably anticipated term of possession used by the assessor in establishing the initial base year value of the interest, in which case, a change in ownership occurs at the end of the reasonably anticipated term of possession used by the assessor to value that interest.

(3) A sublease of a taxable possessory interest for a term, including renewal options, that does not exceed half the length of the remaining term of the leasehold, including renewal options.

(4) The termination of a sublease of a taxable possessory interest with an original term, including renewal options, that did not exceed half the length of the remaining term of the leasehold, including renewal options, when the sublease was entered into.

(5) Any transfer of a sublessee's interest in a taxable possessory interest, with a remaining term, including renewal options, that does not exceed half of the remaining term of the leasehold.

(6) Any transfer of a taxable possessory interest subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

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 May 5, 1981, effective August 12, 1981.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462 (e).
Amended February 4, 1997, effective June 11, 1997.

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

**Rule 462.140. CHANGE IN OWNERSHIP - TRANSFERS RESULTING FROM TAX
DELINQUENCY.**

Reference: Section 60, Revenue and Taxation Code.
Section 15606, Government Code.

Redemption of tax-defaulted property by the assessee shall not be considered as a change in ownership. However, a sale of tax-defaulted property by the tax collector, whether to the former assessee or to any other person, is a change in ownership requiring reappraisal as of the date of the sale.

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 May 5, 1981, effective August 12, 1981
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462 (h)
Amended February 4, 1997, effective June 11, 1997.

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Chapter 1 State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 462.160. CHANGE IN OWNERSHIP - TRUSTS.

References: Sections 60, 61, 62, 63, 63.1, 63.1 note, and 64, Revenue and Taxation Code.
Section 15606, Government Code

(a) CREATION. General Rule. 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.

(b) EXCEPTIONS. The following transfers do not constitute changes in ownership:

(1) Irrevocable Trusts.

(A) Trustor-Transferor Beneficiary Trusts. The transfer of real property by the trustor to a trust in which the trustor-transferor is the sole present beneficiary of the trust. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

Example 1: M transfers income-producing real property to revocable living Trust A, in which M is the sole present beneficiary. Trust A provides that upon M's death, Trust A becomes irrevocable, M's brother B becomes a present beneficiary, and income from the trust property is to be distributed to B for his lifetime. Upon M's death, 100% of the property in Trust A, representing B's present beneficial interest, undergoes a change in ownership.

Where a trustee of an irrevocable trust has total discretion ("sprinkle power") to distribute trust income or property to a number of potential beneficiaries, the property is subject to change in ownership, because the trustee could potentially distribute it to a non-excludable beneficiary, unless all of the potential beneficiaries have an available exclusion from change in ownership.

Example 2: H and W transfer real property interests to the HW Revocable Trust. No change in ownership. HW Trust provides that upon the death of the first spouse the assets of the deceased spouse shall be distributed to "A Trust", and the assets of the surviving spouse shall be distributed to "B Trust", of which surviving spouse is the sole present beneficiary. H dies and under the terms of A Trust, W has a "sprinkle" power for the benefit of herself, her two children and her nephew. When H dies, A Trust becomes irrevocable. There is a change in ownership with respect to the interests transferred to the A Trust because the sprinkle power may be exercised so as to omit the spouse and children as present beneficiaries for whom exclusions from change in ownership may apply, and there are no exclusions applicable to the nephew. However, if the sprinkle power could be exercised only for the benefit of W and her children for whom exclusions are available, the interspousal exclusion and the parent/child exclusion would exclude the interests transferred from change in ownership, provided that all qualifying requirements for those exclusions are met.

Example 3: Same as Example 2 above, except that "A Trust" is without any sprinkle power. When H dies, A Trust becomes irrevocable. Since A Trust holds the assets for the benefit of W, the two children, and the nephew in equal shares, with any of W's share remaining at her death to be distributed to the two children and the nephew in equal shares, there is a change in ownership only to the extent of the interests transferred to the nephew, providing that the parent/child exclusion of Section 63.1 and the interspousal exclusion of Section 63 apply to the interests transferred to the two children and to W respectively. Upon the death of W, there is a

RULE 462.160. (Continued)

change in ownership to the extent of the interests transferred to the nephew, although the parent/child exclusion of Section 63.1 may exclude from change in ownership the interests transferred to the two children. If A Trust had included a sprinkle power, instead of specifying the beneficiaries of the trust income and principal, then as in Example 2, none of the exclusions would apply.

(B) 12 Year Trustor Reversion Trusts. The transfer of real property or ownership interests in a legal entity holding interests in real property by the trustor to a trust in which the trustor-transferor retains the reversion, and the beneficial interest of any person other than the trustor-transferor does not exceed 12 years in duration.

(C) Irrevocable Trusts Holding Interests in Legal Entities. The transfer of an ownership interest in a legal entity holding an interest in real property by the trustor into a trust in which the trustor-transferor is the sole present beneficiary or to a trust in which the trustor-transferor retains the reversion as defined in subdivision (b) (1) (B) of this rule. However, a change in ownership of the real property held by the legal entity does occur if Revenue and Taxation Code section 61 (i), 64 (c) or 64 (d) applies because the change in ownership laws governing interests in legal entities are applicable regardless of whether such interests are held by a trust.

Example 4: Husband and Wife, partners in HW Partnership who are not original coowners, transfer 70 percent of their partnership interests to HW Irrevocable Trust and name their four children as the present beneficiaries of the trust with equal shares. Husband and Wife do not retain the reversion. Under Revenue and Taxation Code section 64 (a) the transfer of the partnership interests to HW Irrevocable Trust is excluded from change in ownership because no person or entity obtains a majority ownership interest in the HW Partnership.

(2) Revocable Trusts. The transfer of real property or an ownership interest in a legal entity holding an interest in real property by the trustor to a trust which is revocable by the trustor. However, a change in ownership does occur at the time that a revocable trust becomes irrevocable unless the trustor-transferor remains or becomes the sole present beneficiary or unless otherwise excluded from change in ownership.

(3) Interspousal Trusts. The transfer is one to which the interspousal exclusion applies. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor's spouse are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

(4) Parent-Child or Grandparent-Grandchild Trusts. The transfer is one to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been made as required by law. However, a change in ownership of trust property does occur to the extent that persons for whom the parent-child or grandparent-grandchild exclusion is not applicable are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

(5) 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.

(6) Other Trusts. The transfer is from one trust to another and meets the requirements of (1), (2), (3), (4), or (5).

(c) TERMINATION. General Rule. The termination of a trust, or portion thereof, constitutes a change in ownership at the time of the termination of the trust.

(d) EXCEPTIONS. The following transfers do not constitute changes in ownership:

(1) Prior Change in Ownership. 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) when the trust was created, when it became irrevocable, or at some other time. However, a 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 unless otherwise excluded from change in ownership.

Example 5: B transfers real property to Trust A and is the sole present beneficiary. Trust A provides that when B dies, the Trust terminates and Trust property is to be distributed equally to R and S, who are unrelated to B. B dies, Trust A terminates, and the transfers of the Trust property to R and S result in changes in ownership, allowing for reassessment of 100 percent of the real property.

(2) 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.

RULE 462.160. (Continued)

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

(4) Interspousal Trusts. Termination results in a transfer to which the interspousal exclusion applies.

(5) Parent-Child or Grandparent-Grandchild Trusts. Termination results in a transfer to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been filed as required by law.

(6) 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.

(7) Other Trusts. Termination results in the transfer from one trust to another and meets the requirements of (1), (2), (3), (4), (5), or (6) of subdivision (b).

(e) For purposes of this rule, the term "trust" does not include a Massachusetts business trust or similar trust, which is taxable as a legal entity and managed for profit for the holders of transferable certificates which, like stock shares in a corporation, entitle the holders to share in the income of the property. For rules applicable to Massachusetts business trusts or similar trusts, see Section 64 of the Revenue and Taxation Code and Rule 462.180, which address legal entities.

History: Adopted June 29, 1978, effective July 3, 1978.

Amended September 26, 1978, effective October 2, 1978.

Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979

Amended November 13, 1979, effective December 6, 1979.

Amended May 5, 1981, effective August 12, 1981.

Amended November 16, 1994, effective December 16, 1994. Renumbered, formerly 462 (i).

Amended September 10, 1997, effective February 20, 1998

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 462.200. CHANGE IN OWNERSHIP - MISCELLANEOUS ARRANGEMENTS.

Reference: Sections 60, 62, and 67, Revenue and Taxation Code
Section 1105, Civil Code; Section 662, Evidence Code.
Section 15606, Government Code.

(a) 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 and Evidence Code Section 662 that a grant of title to real property is a transfer of a present interest in the real property, including the beneficial use thereof, equal to a fee interest. In overcoming this presumption, consideration may be given to, but not limited to, the following factors:

- (1) The existence of a debt or promise to pay.
- (2) The principal amount to be paid for reconveyance is the same, or substantially the same, as the amount paid for the original deed.
- (3) A great inequality between the value of the property and the price alleged to have been paid.
- (4) The grantor remaining in possession with the right to reconveyance on payment of the debt; and
- (5) A written agreement between the parties to reconvey the property upon payment of the debt. The best evidence of the existence of any factor shall be an adjudication of the existence of the factor reflected in a final judicial finding, order, or judgment. 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, canceled checks, insurance policies, and tax returns.

(b) 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, unless an exclusion from change in ownership applies.

In overcoming this presumption, consideration may be given to, but not limited to, the following factors:

- (1) 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.

- (2) The monetary contribution of each party. The best evidence of the existence of any factor shall be an adjudication of the existence of the factor reflected in a final judicial finding, order, or judgment. 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, canceled checks, insurance policies, and tax returns.

(c) Holding agreements. A holding agreement is an agreement between an owner of the property, hereinafter 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.

RULE 462.200. (Continued)

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

(2) 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.

(d) Sale and leaseback. There is a rebuttable presumption under Civil Code 1105 and Evidence Code 662 that a sale of real property, coupled with a leaseback, is a transfer of the present interest, including the beneficial use thereof, equal to a fee interest which constitutes a change in ownership of such property. This presumption may be rebutted by a 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.

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 May 5, 1981, effective August 12, 1981.

Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462 (k).

Amended March 19, 1997, effective June 11, 1997.

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 462.220. CHANGE IN OWNERSHIP - INTERSPOUSAL TRANSFERS.

Reference: Sections 60, 61, 62, 63, 64, 65, 65.1, and 67, Revenue and Taxation Code.
Section 15606, Government Code.

Notwithstanding any other provision of Rules 460 through 471, a change in ownership shall not include any interspousal transfer, including, but not limited to:

- (a) Transfers of ownership interests in legal entities,
- (b) Transfers of ownership interests in legal entities resulting in one spouse obtaining control as defined in Section 64(c) of the Revenue and Taxation Code,

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

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

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

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

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

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

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

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

- (h) 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.

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 May 5, 1981, effective August 12, 1981.

Amended March 31, 1982, effective June 10, 1982.

Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462 (f).

Amended September 10, 1997, effective February 20, 1998.

State of California
BOARD OF EQUALIZATION

PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 462.240. THE FOLLOWING TRANSFERS DO NOT CONSTITUTE A CHANGE IN OWNERSHIP.

Reference: Sections 60, 61, 62, 62.1, 62.2, 64, 66, and 67, Revenue and Taxation Code.
Section 15606, Government Code.

The following transfers do not constitute a change in ownership:

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

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

(2) 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.

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

(c) 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.

(d) Any contribution of real property to an employee benefit plan, any acquisition by an employee benefit plan of the stock of the employer corporation pursuant to which the employee benefit plan obtains direct or indirect ownership or control of more than 50 percent of the voting stock in the employer corporation, 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 contributions of real property made to an employee benefit plan by an employer, a group of employees, or both, without any consideration.)

(e) 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 of the Revenue and Taxation Code 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 transferee and the transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(f) Any transfer, occurring on or after January 1, 1983, which results from the reformation or correction of a deed which, by mistake, inaccurately describes the property intended to be conveyed, or adds or omits some term not agreed to by the parties, or in some other manner fails to express the true intentions of the parties.

Example 1: A agrees to sell one acre to B. The deed mistakenly describes a two-acre area. Reformation of the deed to describe the original acre intended to be transferred is not a change in ownership.

(g) Any transfer, occurring on or after January 1, 1983, of an eligible dwelling unit from a parent or legal guardian to a minor child or children or among minor siblings, or to a trust for the sole benefit of such persons, resulting from a court order or judicial decree due to the death of one or both of the parents. An "eligible dwelling unit" means the dwelling which was the principal place of residence of the minor child or children prior to the transfer and remains such after the transfer.

RULE 462.240. (Continued)

(h) Any transfer of property to a disabled child or ward, whether minor or adult, or to a trust for the sole benefit of such person, upon the death of a parent or guardian pursuant to Section 62(n) of the Revenue and Taxation Code.

(i) Any transfer, on or after January 1, 1985, of a mobilehome park or of rental spaces in a mobilehome park pursuant to Section 62.1 of the Revenue and Taxation Code.

(j) Any transfer of a mobilehome park or of rental spaces in a mobilehome park pursuant to Section 62.2 of the Revenue and Taxation Code.

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 May 5, 1981, effective August 12, 1981.

Amended March 31, 1982, effective June 10, 1982.

Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462 (m).

Amended September 10, 1997, effective February 20, 1998.

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Chapter 1. State Board of Equalization—Property Tax
Subchapter 4. Equalization by State Board
Article 3. Taxable Property of a County, City or Municipal Corporation

Rule 462.260. DATE OF CHANGE IN OWNERSHIP.

Reference: Sections 60, 61, 62, 63 and 67, Revenue and Taxation Code.
Section 15606, Government Code.

For purposes of reappraising real property as of the date of change in ownership of real property, the following dates shall be used:

(a) Sales.

(1) 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 been met in escrow or the date the agreement of the parties became specifically enforceable.

(2) 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 been met in escrow or the date the agreement of the parties became specifically enforceable.

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

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

(d) Trusts.

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

Example 1: A creates an inter vivos revocable trust that becomes irrevocable upon A's death. The date of change in ownership is the date of A's death.

(2) Irrevocable.

(A) The date the property is placed in trust.

Example 2: A's estate plan provides that upon A's death, property is transferred to an irrevocable testamentary trust. The date of change in ownership is the date of A's death.

Example 3: A transfers to an irrevocable inter vivos trust. The date of change in ownership is the date of the transfer.

(B) The effective date of the immediate right to present possession or enjoyment of a remainder or reversion occurs upon the termination of a life estate or other similar precedent property interest.

Example 4: A creates an irrevocable trust, granting A's wife, B, a life estate in the beneficial use of the property with a remainder to C and D who are unrelated to A and B. The creation of a life estate in B is a transfer subject to the interspousal exclusion from change in ownership. Upon B's death, however, a change in ownership occurs because on that date C and D have an immediate right to the present possession and enjoyment of the remainder.

RULE 462.260. (Continued)

NOTE: Refer to Section 462.160 for trust transfer exceptions.

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 May 5, 1981, effective August 12, 1981.

Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462 (n).

Amended March 19, 1997, effective June 11, 1997.