

**Regulations 263, 462.020, 462.060, 462.160, 462.180, 462.220,
462.240**

Section 100

Complete Rule Making File

*OAL Approval with Approved Text Regulations 263, 462.020, 462.060, 462.160, 462.180,
462.220, 462.240*

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1. *Form 400 and Proposed Regulations 263, 462.020, 462.060, 462.160, 462.180,
462.220, 462.240*
2. *Statement of Explanation*
3. *AB 1700*
4. *AB 2046*
5. *SB 565*

Other Documents Relied upon

- A. *Chief Counsel Memo Dated 08/22/13*
- B. *Minutes, 09/10/13*
- C. *Reporters Transcript, 09/10/13*

CC: David Gau-

**State of California
Office of Administrative Law**

In re:

Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:

**Amend sections: 263, 462.020, 462.060,
462.160, 462.180, 462.220,
462.240**

Repeal sections:

**CORRECTED NOTICE OF APPROVAL OF
CHANGES WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL File No. 2013-1108-02 N

Article 4 (commencing with section 460) of chapter 4 of division 1 of title 18 of the California Code of Regulations contains property tax rules the State Board of Equalization has adopted in accordance with Government Code section 15606 to implement, interpret, and make specific the provisions for determining whether real property has undergone a change in ownership under chapter 2 (commencing with section 60) of part 0.5 of division 1 of the Revenue and Taxation Code for property tax purposes. The State Board of Equalization has proposed changes to section 263, 462.020, 462.060, 462.160, 462.180, 462.220, and 462.240 to title 18 of the California Code of Regulations to implement changes made to this chapter of the Revenue and Taxation Code by SB 565 (Stats. 2005, ch. 416), AB 1700 (Stats. 2012, ch. 781), and AB 2046 (Stats. 2012, ch. 817) and to make minor grammatical and formatting changes. This filing is submitted to the Office of Administrative Law pursuant to section 100 of title 1 of the California Code of Regulations as a change without regulatory effect.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 01/13/2014

(originally dated 12/24/2013)



Craig S. Tarpenning
Assistant Chief Counsel

For: DEBRA M. CORNEZ
Director

OFFICE OF ADMINISTRATIVE LAW

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DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk *LM*
DATE: 12/27/2013
RE: Return of Approved Rulemaking Materials
OAL File No. 2013-1108-02N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2013-1108-02N regarding Roll Corrections).

Enclosures If this is an approved file, it contains a copy of the regulation(s) stamped “ENDORSED APPROVED” by the Office of Administrative Law and “ENDORSED FILED” by the Secretary of State.

The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped “ENDORSED FILED” by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption applies concerning the effective date of the regulation approved in this file, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the state agency will contain the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation’s effective date. Additionally, the effective date of the regulation will be noted on OAL’s Web site once OAL posts the Internet Web site link to the full text of the regulation that is received from the state agency. (Gov. Code, secs. 11343 and 11344.)

Please note this new requirement: Unless an exemption applies, Government Code section 11343 now requires:

1. **Section 11343(c)(1):** Within 15 days of OAL filing a state agency’s regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. **Section 11343(c)(2):** Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at postedregslink@oal.ca.gov.

NOTE ABOUT EXEMPTIONS. Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; and regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the State Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

NONSUBSTANTIVE

NOTICE PUBLICATION/REGULATION SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2013-1108-02N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILED IN THE OFFICE OF

2013 DEC 24 PM 12:57

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY
State Board of Equalization

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Roll Corrections	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT
AMEND 263, 462.020, 462.060, 462.160, 462.180, 462.220, 462.240
REPEAL
TITLE(S) 18

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal

7. CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Joann Richmond</i>	DATE November 7, 2013
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 24 2013

Office of Administrative Law

Text of Proposed Changes to

Title 18. Public Revenue

Rule 263. Roll Corrections.

(a) . . . (unchanged).

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of Division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in Revenue and Taxation Code sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under Revenue and Taxation Code section 1605 and the procedure for applying for cancellation under Revenue and Taxation Code section 4986.

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) . . . (unchanged):

(1) . . . (unchanged).

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made.

(i) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

Rule 462.020. Change in Ownership – Tenancies in Common.

(a) General Rule. . . . (unchanged).

(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 interests of the co-owners, such as:

(A) . . . (unchanged),

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

(C) a transfer from a ~~co-tenancy~~cotenancy 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% percent interest. They transfer the property to a newly formed corporation each receiving 50% percent of the stock. Such a transfer would not be regarded as a change in ownership.

(2) . . . (unchanged).

Example 2: . . . (unchanged).

Example 3: . . . (unchanged).

(3) The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), 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 Revenue and Taxation Code section 63.1.

(5) The transfer is one to which the cotenancy exclusion, pursuant to Revenue and Taxation Code section 62.3, applies.

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

Rule 462.060. Change in Ownership – Life Estates and Estates for Years.

(a) 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 transferor or the transferor's spouse, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such a life estate by the transferor or the transferor's spouse or registered domestic partner to a third party is a change in ownership. Upon termination of such a reserved life estate, the vesting of a right of possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse or registered domestic partner) is a change in ownership.

(b) 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, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such an estate for years by the transferor or the transferor's spouse or registered domestic partner 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 or registered domestic partner) 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.

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

Rule 462.160. Change in Ownership – Trusts.

(a) Creation. General Rule. . . . (unchanged).

(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% percent 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 Trust₁"; and the assets of the surviving spouse shall be distributed to "B Trust₂"; 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 the 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 Revenue and Taxation Code Section 63.1 and the interspousal exclusion of Revenue and Taxation Code Section 63 apply to the interests transferred to the two children and to W respectively. Upon the death of W, there is a change in ownership to the extent of the interests transferred to the nephew, although the parent/child exclusion of Revenue and Taxation Code 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. . . . (unchanged).

(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, subdivision (i), 64, subdivision (c), or 64, subdivision (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 ~~co-owners~~ co-owners, 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, subdivision (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. . . . (unchanged).

(3) Interspousal and Registered Domestic Partner Trusts. The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), applies. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor's spouse or registered domestic partner 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 Revenue and Taxation Code section 63.1. 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. . . . (unchanged).

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

(c) Termination. General Rule. . . . (unchanged).

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

(1) Prior Change in Ownership. . . . (unchanged).

Example 5: . . . (unchanged).

(2) Revocable Trusts. . . . (unchanged).

(3) Trustor Reversion Trusts. . . . (unchanged).

(4) Interspousal and Registered Domestic Partner Trusts. Termination results in a transfer to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), 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~~Revenue and Taxation Code section 63.1.

(6) Proportional Interests. . . . (unchanged).

(7) Other Trusts. . . . (unchanged).

(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 Revenue and Taxation Code Section 64 ~~of the Revenue and Taxation Code~~ and Rule 462.180, which address legal entities.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 63.1, 63.1 note and 64, Revenue and Taxation Code.

Rule 462.180. Change in Ownership – Legal Entities.

(a) Transfers of Real Property to and by Legal Entities. General Rule. The transfer of any interest in real property to a corporation, partnership, limited liability company, or other legal entity is a change in ownership of the real property interest transferred. For purposes of this rule, “real property” or “interests in real property” includes real property interests and fractional interests thereof, the transfer of which constitute a change in ownership under Revenue and Taxation Code Sections 60 and the following applicable sections of the Revenue and Taxation Code, and under the applicable change in ownership provisions of the Property Tax Rules.

(b) Exceptions. . . . (unchanged):

(1) Affiliated Corporation Transfers. . . . (unchanged):

(A) . . . (unchanged), and

(B) . . . (unchanged).

SIMPLE EXAMPLE . . . (unchanged).

Example 1: Any 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% percent of A.

[Last sentence in subdivision (b)(1)] . . . (unchanged).

(2) Proportional Transfers of Real Property. Transfers of real property between separate legal entities or by an individual 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 each and every piece of real property transferred 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 interests, or other types of ownership interest, shall be defined as “original co-owners” for purposes of determining whether a change in ownership has occurred upon the subsequent transfer of the ownership interests in the legal entity.) This subdivision shall not apply to a transfer of real property which is also excluded from change in ownership pursuant to subdivision (b)(1) of this rule (transfers between or among affiliated corporations).

Examples of Transfers of Real Property in Legal Entities:

Example 2: . . . (unchanged).

Example 3: . . . (unchanged).

Example 4: Corporation X owns Blackacre and Whiteacre (both are of equal value). A & B each own 50% percent of Corporation X’s shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of 100% percent of both Blackacre and Whiteacre. However, if Corporation X transfers Whiteacre and Blackacre to both A and B as joint tenants or as equal tenants in common, there is no change in ownership.

Example 5: A transfer of real property from Corporation X to its sole shareholder A. No change in ownership, even if A is an “original co-owner,”; because interests in real property, and not ownership interests in a legal entity, are being transferred.

(c) Transfers of ownership interests in legal entities. General Rule. The purchase or transfer of corporate stock, partnership interests, or ownership interests in other legal entities is not a change in ownership of the real property of the legal entity, pursuant to Revenue and Taxation Code Section 64, subdivision (a) of the Revenue and Taxation Code.

(d) Exceptions. The following transfers constitute changes in ownership, except as provided in subdivision (d)(4) of this rule which is an exclusion from change in ownership:

(1) Control. . . . (unchanged):

(A) obtains through a reorganization or any transfer, 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 subdivision (b)(1) of this rule, or

(B) . . . (unchanged), or

(C) . . . (unchanged).

[Last sentence in subdivision (d)(1)] . . . (unchanged).

(2) Transfers of More than 50 Percent. When on or after March 1, 1975, real property is transferred to a partnership, corporation, limited liability company, or other legal entity and the transfer is excluded from change in ownership under Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~, and the “original co-owners” subsequently transfer, in one or more transactions, cumulatively more than 50 percent of the total control or ownership interests, as defined in subdivision (d)(1) of this rule, in that partnership, corporation, limited liability company or legal entity, there is a change in ownership of only that property owned by the entity which was previously excluded under Section 62, subdivision (a)(2). However, when such transfer would also result in a change in control under Revenue and Taxation Code Section 64, subdivision (c) ~~of the Revenue and Taxation Code~~, then reappraisal of the property owned by the corporation, partnership, limited liability company, or other legal entity shall be pursuant to Section 64, subdivision (c) rather than Section 64, subdivision (d).

For purposes of this subdivision ((d)(2)), interspousal transfers excluded under ~~Section 63 of the Revenue and Taxation Code~~ section 63, transfers between registered domestic partners excluded under Revenue and Taxation Code section 62, subdivision (p), transfers into qualifying trusts excluded under Revenue and Taxation Code Section 62, subdivision (d) ~~of the Revenue and Taxation Code~~, and proportional transfers excluded under Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~ shall not be cumulated or counted to determine a change in ownership.

Examples of Transfers of Interests in Legal Entities:

Example 6: A and B each own 50 percent of the stock of Corporation X. Corporation X acquires Whiteacre from Corporation Y, an unaffiliated corporation in which neither A nor B has interests, and Whiteacre is reappraised upon acquisition. A transfers 30 percent of Corporation X’s stock to C, and B later transfers 25 percent of Corporation X’s stock to C. Upon C’s acquisition of 55 percent of Corporation X’s stock, there is a change in control of Corporation X under Revenue and Taxation Code Section 64, subdivision (c) and a reappraisal of Whiteacre.

Example 7: Spouses H and W acquire as community property 100% percent of the capital and profits interests in an LLC which owns Blackacre. Each of H and W is treated as acquiring 50 percent of the ownership interests as defined in subdivision (c) of this rule and Revenue and Taxation Code section 64, subdivision (a). Since the selling members of the LLC are not original co-owners (because they did not transfer the property to the LLC under the Revenue and Taxation Code sSection 62, subdivision (a)(2) exclusion), no change in control of the LLC would occur under Revenue and Taxation Code section 64, subdivision (c) and no change in ownership of Blackacre under Revenue and Taxation Code section 64, subdivision (d).

Example 8: A and B, hold equal interests as tenants in common in Greenacre, a parcel of real property. A and B transfer Greenacre to Corporation Y and in exchange A and B each receive 50 percent of the corporate stock. No change in ownership pursuant to Revenue and Taxation Code sSection 62, subdivision (a)(2). Pursuant to Revenue and Taxation Code sSection 64, subdivision (d), A and B become original coowners. A transfers 30 percent of Corporation Y's stock to C (A's child), and B then transfers 25 percent of Corporation Y's stock to D (B's grandchild). Change in ownership of Greenacre upon B's transfer to D. Parent/child and grandparent/grandchild exclusions are not applicable to transfers of interests in legal entities. However, if the same transfers were made by A and B to their respective spouses, no change in ownership pursuant to Revenue and Taxation Code sSection 63 and Rule 462.220.

(3) Cooperative Housing Corporation. When the stock transferred in a cooperative housing corporation ("stock cooperative" as defined in subdivision (m) of sSection 1351 of the Civil Code) conveys the exclusive right to occupancy of all or part of the corporate property, unless:

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

(B) . . . (unchanged), and

(C) . . . (unchanged).

(4) Proportional Interest Transfers. Transfers of stock, partnership interests, limited liability company interests, or any other interests in legal entities between legal entities or by an individual to a legal entity (or vice versa) which result solely in a change in the method of holding title and in which proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership, as provided in subdivision (b)(2) of this rule and Revenue and Taxation Code sSection 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~. This provision shall not apply to a statutory conversion or statutory merger of a partnership into a limited liability company or other partnership (or a limited liability

company into a partnership) when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the converting or disappearing entity maintain the same ownership interest in profits and capital of the converted or surviving entity that they held in the converting or disappearing entity.

Examples of Excluded Proportional Interest Transfers:

Example 9: General Partnership (GP), which owns Whiteacre and in which A and B hold equal partnership interests, converts to Limited Partnership (LP) under the Revised Uniform Partnership Act of 1994 (California Corporations Code section 16100 et seq.). As a result of the conversion, A and B each hold 50 percent of the LP interests in capital and profits. No change in ownership of Whiteacre upon the conversion, because, under Section 16909 of the Corporations Code, there is no transfer of Whiteacre. Revenue and Taxation Code Section 62, subdivision (a)(2) of the Revenue and Taxation Code does not apply. However, if A and B were “original coowners” in GP, they remain “original coowners” in LP.

Example 10: Following the conversion in Example 9, A and B each transfer 30 percent of their capital and profits interests in LP to Limited Liability Company (LLC), which is owned equally by A and B. Each retain an equal 20 percent interest in LP. No change in ownership of Whiteacre pursuant to Revenue and Taxation Code Section 62, subdivision (a)(2) because A and B own 100 percent of both LP and LLC and their respective proportional interests remain the same after the transfer. Neither Revenue and Taxation Code section 64, subdivision (c) nor section 64 subdivision (d) of the Revenue and Taxation Code applies to this transfer, although A and B become “original coowners” with respect to their interests in LLC.

Example 11: A limited partnership (LP), which owns Blackacre and in which C and D hold equal partnership interests, changes its form to a limited liability company (LLC), in which C and D hold equal membership interests, by statutory merger under the California Revised Limited Partnership Act (California Corporations Code section 15611 et seq.) and the Beverly-Killea Limited Liability Company Act (California Corporations Code section 17000 et seq.). No change in ownership of Blackacre upon the change in form because under section 17554 of the ~~California~~ Corporations Code, there is not a transfer of property from LP to LLC. Revenue and Taxation Code Section 62, subdivision (a)(2) of the Revenue and Taxation Code does not apply. However, if C and D were “original coowners” in LP, they remain “original coowners” in LLC.

(e) Partnerships.

(1) Transfers of Real Property by Partnerships. General Rule. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, 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 partners with

or without reference to the partnership. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, 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.

(2) Except as provided in subdivision (d)(1)(B) and ^(d) (2) of this rule, the addition or deletion of partners in a continuing partnership does not constitute a change in ownership of partnership property. CT

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 64 and 67, Revenue and Taxation Code; Sections 16909 and 17554, Corporations Code; and Section 1351, Civil Code.

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

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

(a) . . . (unchanged),

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

Example 1: . . . (unchanged).

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

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

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

(e) Transfers which take effect upon the death of a spouse or registered domestic partner,

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

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

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

Rule 462.240. The Following Transfers Do Not Constitute a Change in Ownership.

The following transfers do not constitute a change in ownership:

- (a) . . . (unchanged),
 - (1) . . . (unchanged).
 - (2) . . . (unchanged).
- (b) . . . (unchanged).
- (c) . . . (unchanged).
- (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 by 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 Revenue and Taxation Code Section 66, subdivision (b) of the Revenue and Taxation Code and this ~~rule~~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 Revenue and Taxation Code 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 transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(f) . . . (unchanged).

Example 1: . . . (unchanged).

(g) . . . (unchanged).

(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 Revenue and Taxation Code Section 62, subdivision (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 Revenue and Taxation Code 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 Revenue and Taxation Code Section 62.2 of the Revenue and Taxation Code.

(k) Any transfer of a floating home marina pursuant to Revenue and Taxation Code section 62.5. Any transfer of separate property inherited by a surviving domestic partner, as defined in subdivision (b) of section 37 of the Probate Code, by intestate succession upon the death of a registered domestic partner.

(l) Any transfer of real property between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 62.1, 62.2, 62.5, 64, 66 and 67, Revenue and Taxation Code; and Sections 37, 6401 and 6402, Probate Code.

proposed 2013 Consent Decree, DTSC will hold a public meeting close to the Site.

For more information, please contact Jennifer Rich at (714) 484-5415 or Tim Chauvel, Public Participation Specialist at (714) 484-5487. For media inquiries, contact Sandy Nax, (916) 327-6114. For more information about DTSC, visit www.dtsc.ca.gov.

PROPOSITION 65

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATION

TITLE 27. CALIFORNIA CODE OF REGULATIONS PROPOSED AMENDMENT TO SECTION 25302, SCIENCE ADVISORY BOARD AND SECTION 25304, FINANCIAL DISCLOSURE

As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of a change made to the proposed regulations amending the required qualifications for appointment to the Developmental and Reproductive Toxicant (DART) Identification Committee.

This proposed regulation was originally the subject of a Notice of Proposed Rulemaking published on October 25, 2013, in the California Regulatory Notice Register (Register 2013, No. 43-Z), which initiated a public comment period. One written submission from the public was received during the comment period that ended December 9, 2013.

After review of the comments received, Section 25302(b)(2)(i) of the regulation has been amended to identify several sub-specialties of research experience that are particularly relevant. Although those sub-specialties were encompassed by the areas previously identified, concern was expressed by the commenter that their omission might be perceived as de-emphasizing these core areas of expertise. The new modifications are shown in double-underline below:

(b)(2) The DART Identification Committee shall be composed of no less than seven (7) members and no greater than eleven (11) members. Each member shall

~~be an expert who has; and shall include experts from among the following areas of specialization:~~

~~i) completed a doctoral degree and has research experience in an area of specialization among the following: epidemiology, developmental toxicology, reproductive toxicology, teratology, developmental toxicology, reproductive toxicology, teratology, medicine, public health, biostatistics, biology, toxicology, and related fields; and.~~

~~ii) demonstrated ongoing expertise in the conduct of advanced scientific work of relevance to the identification of chemicals that pose reproductive or developmental hazards using generally accepted and scientifically valid principles and methodologies.~~

These modifications are also presented on the OEHHA website at www.oehha.ca.gov, and may be requested from Monet Vela at the OEHHA Legal Office at (916) 323-2517.

OEHHA will accept written comments on these amendments to the proposed regulation between January 24 and February 10, 2014. Comments must be submitted no later than 5:00 p.m. on **February 10, 2014**. We encourage you to submit comments in electronic form, rather than in paper form. Comments transmitted by e-mail should be addressed to P65Public.comments@oehha.ca.gov. Please include "Committee Qualifications" in the subject line. Comments submitted in paper form may be mailed, faxed, or delivered in person to the address below. Mailed, faxed or hand-delivered comments should be addressed to:

Monet Vela
Office of Environmental Health Hazard Assessment
P. O. Box 4010
Sacramento, California 95812-4010
Telephone: 916-323-2517
Fax: 916-323-2610
E-mail: P65Public.Comments@oehha.ca.gov

SUMMARY OF REGULATORY ACTIONS

EDITORIAL CORRECTION

In the January 3, 2014 Notice Register 2014, 1-Z, p. 40, there was an incorrect section listed for the Board of Equalization filing, OAL Regulatory Action No. 2013-1108-02, re: Roll Corrections. Among the sections amended for Title 18, one of the sections was incorrectly listed as 464.240. The correct section number should be 462.240. We regret the error.

trust. Therefore, the addition of the licensee class “trustee” to CCR 4480(a) is not applicable.

DECISION

For all the reasons stated above, the rulemaking petition is denied.

CONTACT PERSON

Inquiries concerning the Bureau’s Decision may be directed to:

Julia Ansel, Bureau Chief
Professional Fiduciaries Bureau
Department of Consumer Affairs
Post Office Box 989005
West Sacramento, CA 95798–9005
(916) 574–7340

AVAILABILITY OF PETITION

The Petition is available upon request directed to the Bureau’s contact person.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

File# 2013–1105–02
BOARD OF ACCOUNTANCY
Practice Privilege

The Board of Accountancy (Board) submitted this timely certificate of compliance action to make permanent the emergency regulations adopted and amended in OAL File Number 2013–0529–01E. In that action, the Board adopted six sections and amended three sections of title 16 of the California Code of Regulations pertaining to the practice privilege program. Individuals or firms licensed or registered to perform public accountancy services outside the state are allowed to practice in California if they obtain a practice privilege. Ex-

isting laws governing obtaining a practice privilege and disciplinary actions that can be taken against an individual or firm practicing in California under a practice privilege were amended in S.B. 1405 (Stats. 2012, ch. 411), which went into effect on July 1, 2013. The purpose of the emergency action was to conform the Board’s practice privilege regulations to the new laws. Additionally, the Board adopted four incorporated by reference forms and amended an existing incorporated by reference disciplinary guidelines manual in the emergency action.

Title 16
California Code of Regulations
ADOPT: 5.5, 18, 19, 20, 21, 22
AMEND: 21 (renumbered to 36.1), 26, 98
Filed 12/18/2013
Effective 12/18/2013
Agency Contact: Matthew Stanley (916) 561–1792

File# 2013–1108–02
BOARD OF EQUALIZATION
Roll Corrections

Article 4 (commencing with section 460) of chapter 4 of division 1 of title 18 of the California Code of Regulations contains property tax rules the State Board of Equalization has adopted in accordance with Government Code section 15606 to implement, interpret, and make specific the provisions for determining whether real property has undergone a change in ownership under chapter 2 (commencing with section 60) of part 0.5 of division 1 of the Revenue and Taxation Code for property tax purposes. The State Board of Equalization has made changes to sections 263, 462.020, 462.060, 462.160, 462.180, 462.220, and 462.240 to title 18 of the California Code of Regulations to implement changes made to this chapter of the Revenue and Taxation Code by SB 565 (Stats. 2005, ch. 416), AB 1700 (Stats. 2012, ch. 781), and AB 2046 (Stats. 2012, ch. 817) and to make minor grammatical and formatting changes. This filing is submitted to the Office of Administrative Law pursuant to section 100 of title 1 of the California Code of Regulations as a change without regulatory effect.

Title 18
California Code of Regulations
AMEND: 263, 462.020, 462.060, 462.160, 462.180, 462.220, 464.240
Filed 12/24/2013
Agency Contact:
Richard E. Bennion (916) 445–2130

File# 2013–1119–03
BOARD OF OCCUPATIONAL THERAPY
Retired Status & Application Processing

M e m o r a n d u m

To : Craig Tarpenning
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Date: December 24, 2013

From : Bradley Heller
Tax Counsel IV
Legal Department, MIC: 82

Subject : *OAL File No. 2013-1108-02N*
Rules 462.020, 462.160, and 462.180

Revenue and Taxation Code (RTC) section 63.1, subdivision (a), provides exclusions from change in ownership for specified transfers of real property between parents and their children and between grandparents and their grandchildren. RTC section 63.1, subdivision (d), expressly provides that the exclusions shall not be allowed unless a claim is filed with the assessor, and RTC section 63.1, subdivision (e), prescribes the time periods in which a timely claim can be filed. Therefore, RTC section 63.1 is the only statute requiring a timely claim to be filed for the parent-child and grandparent-grandchild exclusions and it is the "law" currently referred to in Rule 462.020, subdivision (b)(4), and Rule 462.160, subdivisions (b)(4) and (d)(5).

In addition, the Office of Administrative Law (OAL) is authorized to delete the strikeouts from "(d)" in the reference to subdivision "(d)(2)" in Rule 462.180, subdivision (e)(2), of the text of the Rule 100 changes to Rule 462.180.

If you have any questions or comments, please notify me at (916) 323-3091 or email at Bradley.Heller@boe.ca.gov.

BMH

**Regulation 263, 462.020, 462.060, 462.160, 462.180, 462.220,
462.240**

Section 100

Index

1. *Form 400 and Proposed Regulations 263, 462.020, 462.060, 462.160, 462.180,
462.220, 462.240*
2. *Statement of Explanation*
3. *AB 1700*
4. *AB 2046*
5. *SB 565*

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2013-1108-02 N	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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2013 NOV -9 AM 10:11
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
State Board of Equalization

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER		PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Roll Corrections	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND
	263, 462.020, 462.060, 462.160, 462.180, 462.220, 462.240
TITLE(S) 18	REPEAL

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Joann Richmond</i>	DATE November 7, 2013
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

Text of Proposed Changes to

Title 18. Public Revenue

Rule 263. Roll Corrections.

(a) . . . (unchanged).

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of Division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in Revenue and Taxation Code sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under Revenue and Taxation Code section 1605 and the procedure for applying for cancellation under Revenue and Taxation Code section 4986.

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) . . . (unchanged):

(1) . . . (unchanged).

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made.

(i) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

Rule 462.020. Change in Ownership – Tenancies in Common.

(a) General Rule. . . . (unchanged).

(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 interests of the co-owners, such as:

(A) . . . (unchanged),

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

(C) a transfer from a ~~co-tenancy~~cotenancy 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% percent interest. They transfer the property to a newly formed corporation each receiving 50% percent of the stock. Such a transfer would not be regarded as a change in ownership.

(2) . . . (unchanged).

Example 2: . . . (unchanged).

Example 3: . . . (unchanged).

(3) The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), 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 Revenue and Taxation Code section 63.1.

(5) The transfer is one to which the cotenancy exclusion, pursuant to Revenue and Taxation Code section 62.3, applies.

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

Rule 462.060. Change in Ownership – Life Estates and Estates for Years.

(a) 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 transferor or the transferor's spouse, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such a life estate by the transferor or the transferor's spouse or registered domestic partner to a third party is a change in ownership. Upon termination of such a reserved life estate, the vesting of a right of possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse or registered domestic partner) is a change in ownership.

(b) 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, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such an estate for years by the transferor or the transferor's spouse or registered domestic partner 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 or registered domestic partner) 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.

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

Rule 462.160. Change in Ownership – Trusts.

(a) Creation. General Rule. . . . (unchanged).

(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% percent 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 the 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 Revenue and Taxation Code §section 63.1 and the interspousal exclusion of Revenue and Taxation Code §section 63 apply to the interests transferred to the two children and to W respectively. Upon the death of W, there is a change in ownership to the extent of the interests transferred to the nephew, although the parent/child exclusion of Revenue and Taxation Code §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. . . . (unchanged).

(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, subdivision (i), 64, subdivision (c), or 64, subdivision (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 ~~co-owners~~ co-owners, 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, subdivision (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. . . . (unchanged).

(3) Interspousal and Registered Domestic Partner Trusts. The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), applies. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor's spouse or registered domestic partner 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 Revenue and Taxation Code section 63.1. 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. . . . (unchanged).

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

(c) Termination. General Rule. . . . (unchanged).

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

(1) Prior Change in Ownership. . . . (unchanged).

Example 5: . . . (unchanged).

(2) Revocable Trusts. . . . (unchanged).

(3) Trustor Reversion Trusts. . . . (unchanged).

(4) Interspousal and Registered Domestic Partner Trusts. Termination results in a transfer to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), 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~~Revenue and Taxation Code section 63.1.

(6) Proportional Interests. . . . (unchanged).

(7) Other Trusts. . . . (unchanged).

(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 Revenue and Taxation Code Section 64 of the Revenue and Taxation Code and Rule 462.180, which address legal entities.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 63.1, 63.1 note and 64, Revenue and Taxation Code.

Rule 462.180. Change in Ownership – Legal Entities.

(a) Transfers of Real Property to and by Legal Entities. General Rule. The transfer of any interest in real property to a corporation, partnership, limited liability company, or other legal entity is a change in ownership of the real property interest transferred. For purposes of this rule, “real property” or “interests in real property” includes real property interests and fractional interests thereof, the transfer of which constitute a change in ownership under Revenue and Taxation Code Sections 60 and the following applicable sections of the Revenue and Taxation Code, and under the applicable change in ownership provisions of the Property Tax Rules.

(b) Exceptions. . . . (unchanged):

(1) Affiliated Corporation Transfers. . . . (unchanged):

(A) . . . (unchanged), and

(B) . . . (unchanged).

SIMPLE EXAMPLE . . . (unchanged).

Example 1: Any 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% percent of A.

[Last sentence in subdivision (b)(1)] . . . (unchanged).

(2) Proportional Transfers of Real Property. Transfers of real property between separate legal entities or by an individual 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 each and every piece of real property transferred 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 interests, or other types of ownership interest, shall be defined as “original co-owners” for purposes of determining whether a change in ownership has occurred upon the subsequent transfer of the ownership interests in the legal entity.) This subdivision shall not apply to a transfer of real property which is also excluded from change in ownership pursuant to subdivision (b)(1) of this rule (transfers between or among affiliated corporations).

Examples of Transfers of Real Property in Legal Entities:

Example 2: . . . (unchanged).

Example 3: . . . (unchanged).

Example 4: Corporation X owns Blackacre and Whiteacre (both are of equal value). A & B each own 50% percent of Corporation X’s shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of 100% percent of both Blackacre and Whiteacre. However, if Corporation X transfers Whiteacre and Blackacre to both A and B as joint tenants or as equal tenants in common, there is no change in ownership.

Example 5: A transfer of real property from Corporation X to its sole shareholder A. No change in ownership, even if A is an “original co-owner,”; because interests in real property, and not ownership interests in a legal entity, are being transferred.

(c) Transfers of ownership interests in legal entities. General Rule. The purchase or transfer of corporate stock, partnership interests, or ownership interests in other legal entities is not a change in ownership of the real property of the legal entity, pursuant to Revenue and Taxation Code Section 64, subdivision (a) of the Revenue and Taxation Code.

(d) Exceptions. The following transfers constitute changes in ownership, except as provided in subdivision (d)(4) of this rule which is an exclusion from change in ownership:

(1) Control. . . (unchanged):

(A) obtains through a reorganization or any transfer, 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 subdivision (b)(1) of this rule, or

(B) . . . (unchanged), or

(C) . . . (unchanged).

[Last sentence in subdivision (d)(1)] . . . (unchanged).

(2) Transfers of More than 50 Percent. When on or after March 1, 1975, real property is transferred to a partnership, corporation, limited liability company, or other legal entity and the transfer is excluded from change in ownership under Revenue and Taxation Code Section 62, subdivision (a)(2) of the Revenue and Taxation Code, and the “original co-owners” subsequently transfer, in one or more transactions, cumulatively more than 50 percent of the total control or ownership interests, as defined in subdivision (d)(1) of this rule, in that partnership, corporation, limited liability company or legal entity, there is a change in ownership of only that property owned by the entity which was previously excluded under Section 62, subdivision (a)(2). However, when such transfer would also result in a change in control under Revenue and Taxation Code Section 64, subdivision (c) of the Revenue and Taxation Code, then reappraisal of the property owned by the corporation, partnership, limited liability company, or other legal entity shall be pursuant to Section 64, subdivision (c) rather than Section 64, subdivision (d).

For purposes of this subdivision ((d)(2)), interspousal transfers excluded under ~~Section 63 of the Revenue and Taxation Code section 63~~, transfers between registered domestic partners excluded under Revenue and Taxation Code section 62, subdivision (p), transfers into qualifying trusts excluded under Revenue and Taxation Code Section 62, subdivision (d) of the Revenue and Taxation Code, and proportional transfers excluded under Revenue and Taxation Code Section 62, subdivision (a)(2) of the Revenue and Taxation Code shall not be cumulated or counted to determine a change in ownership.

Examples of Transfers of Interests in Legal Entities:

Example 6: A and B each own 50 percent of the stock of Corporation X. Corporation X acquires Whiteacre from Corporation Y, an unaffiliated corporation in which neither A nor B has interests, and Whiteacre is reappraised upon acquisition. A transfers 30 percent of Corporation X’s stock to C, and B later transfers 25 percent of Corporation X’s stock to C. Upon C’s acquisition of 55 percent of Corporation X’s stock, there is a change in control of Corporation X under Revenue and Taxation Code Section 64, subdivision (c) and a reappraisal of Whiteacre.

Example 7: Spouses H and W acquire as community property 100% percent of the capital and profits interests in an LLC which owns Blackacre. Each of H and W is treated as acquiring 50 percent of the ownership interests as defined in subdivision (c) of this rule and Revenue and Taxation Code section 64, subdivision (a). Since the selling members of the LLC are not original co-owners (because they did not transfer the property to the LLC under the Revenue and Taxation Code sSection 62, subdivision (a)(2) exclusion), no change in control of the LLC would occur under Revenue and Taxation Code section 64, subdivision (c) and no change in ownership of Blackacre under Revenue and Taxation Code section 64, subdivision (d).

Example 8: A and B, hold equal interests as tenants in common in Greenacre, a parcel of real property. A and B transfer Greenacre to Corporation Y and in exchange A and B each receive 50 percent of the corporate stock. No change in ownership pursuant to Revenue and Taxation Code sSection 62, subdivision (a)(2). Pursuant to Revenue and Taxation Code sSection 64, subdivision (d), A and B become original coowners. A transfers 30 percent of Corporation Y's stock to C (A's child), and B then transfers 25 percent of Corporation Y's stock to D (B's grandchild). Change in ownership of Greenacre upon B's transfer to D. Parent/child and grandparent/grandchild exclusions are not applicable to transfers of interests in legal entities. However, if the same transfers were made by A and B to their respective spouses, no change in ownership pursuant to Revenue and Taxation Code sSection 63 and Rule 462.220.

(3) Cooperative Housing Corporation. When the stock transferred in a cooperative housing corporation ("stock cooperative" as defined in subdivision (m) of sSection 1351 of the Civil Code) conveys the exclusive right to occupancy of all or part of the corporate property, unless:

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

(B) . . . (unchanged), and

(C) . . . (unchanged).

(4) Proportional Interest Transfers. Transfers of stock, partnership interests, limited liability company interests, or any other interests in legal entities between legal entities or by an individual to a legal entity (or vice versa) which result solely in a change in the method of holding title and in which proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership, as provided in subdivision (b)(2) of this rule and Revenue and Taxation Code sSection 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~. This provision shall not apply to a statutory conversion or statutory merger of a partnership into a limited liability company or other partnership (or a limited liability

company into a partnership) when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the converting or disappearing entity maintain the same ownership interest in profits and capital of the converted or surviving entity that they held in the converting or disappearing entity.

Examples of Excluded Proportional Interest Transfers:

Example 9: General Partnership (GP), which owns Whiteacre and in which A and B hold equal partnership interests, converts to Limited Partnership (LP) under the Revised Uniform Partnership Act of 1994 (California Corporations Code section 16100 et seq.). As a result of the conversion, A and B each hold 50 percent of the LP interests in capital and profits. No change in ownership of Whiteacre upon the conversion, because, under ~~Section 16909~~ of the Corporations Code, there is no transfer of Whiteacre. Revenue and Taxation Code Section 62, subdivision (a)(2) of the ~~Revenue and Taxation Code~~ does not apply. However, if A and B were “original coowners” in GP, they remain “original coowners” in LP.

Example 10: Following the conversion in Example 9, A and B each transfer 30 percent of their capital and profits interests in LP to Limited Liability Company (LLC), which is owned equally by A and B. Each retain an equal 20 percent interest in LP. No change in ownership of Whiteacre pursuant to Revenue and Taxation Code Section 62, subdivision (a)(2) because A and B own 100 percent of both LP and LLC and their respective proportional interests remain the same after the transfer. Neither Revenue and Taxation Code section 64, subdivision (c) nor ~~section 64 subdivision (d) of the Revenue and Taxation Code~~ applies to this transfer, although A and B become “original coowners” with respect to their interests in LLC.

Example 11: A limited partnership (LP), which owns Blackacre and in which C and D hold equal partnership interests, changes its form to a limited liability company (LLC), in which C and D hold equal membership interests, by statutory merger under the California Revised Limited Partnership Act (California Corporations Code section 15611 et seq.) and the Beverly-Killea Limited Liability Company Act (California Corporations Code section 17000 et seq.). No change in ownership of Blackacre upon the change in form because under section 17554 of the ~~California~~ Corporations Code, there is not a transfer of property from LP to LLC. Revenue and Taxation Code Section 62, subdivision (a)(2) of the ~~Revenue and Taxation Code~~ does not apply. However, if C and D were “original coowners” in LP, they remain “original coowners” in LLC.

(e) Partnerships.

(1) Transfers of Real Property by Partnerships. General Rule. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, 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 partners with

or without reference to the partnership. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, 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.

(2) Except as provided in subdivision (d)(1)(B) and ~~(d)(2)~~ of this rule, the addition or deletion of partners in a continuing partnership does not constitute a change in ownership of partnership property.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 64 and 67, Revenue and Taxation Code; Sections 16909 and 17554, Corporations Code; and Section 1351, Civil Code.

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

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

(a) . . . (unchanged),

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

Example 1: . . . (unchanged).

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

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

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

(e) Transfers which take effect upon the death of a spouse or registered domestic partner,

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

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

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

Rule 462.240. The Following Transfers Do Not Constitute a Change in Ownership.

The following transfers do not constitute a change in ownership:

- (a) . . . (unchanged),
 - (1) . . . (unchanged).
 - (2) . . . (unchanged).
- (b) . . . (unchanged).
- (c) . . . (unchanged).
- (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 by 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 Revenue and Taxation Code Section 66, subdivision (b) of the ~~Revenue and Taxation Code~~ and this ~~rule~~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 Revenue and Taxation Code 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 transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(f) . . . (unchanged).

Example 1: . . . (unchanged).

(g) . . . (unchanged).

(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 Revenue and Taxation Code Section 62, subdivision (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 Revenue and Taxation Code 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 Revenue and Taxation Code Section 62.2 of the ~~Revenue and Taxation Code~~.

(k) Any transfer of a floating home marina pursuant to Revenue and Taxation Code section 62.5. ~~Any transfer of separate property inherited by a surviving domestic partner, as defined in subdivision (b) of section 37 of the Probate Code, by intestate succession upon the death of a registered domestic partner.~~

(l) Any transfer of real property between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 62.1, 62.2, 62.5, 64, 66 and 67, Revenue and Taxation Code; and Sections 37, 6401 and 6402, Probate Code.

CHANGES WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues

Rule 263, *Roll Corrections*

Rule 462.020, *Change in Ownership – Tenancies in Common*

Rule 462.060, *Change in Ownership – Life Estates and Estates for Years*

Rule 462.160, *Change in Ownership – Trusts*

Rule 462.180, *Change in Ownership – Legal Entities*

Rule 462.220, *Change in Ownership – Interspousal Transfers*

Rule 462.240, *The Following Transfers Do Not Constitute a Change in Ownership*

A. Factual Basis

1. Grammatical and Formatting Changes to Rule 263

Chapter 2 (commencing with section 101) of division 1 of title 18 of the California Code of Regulations contains property tax rules the State Board of Equalization (BOE) has adopted in accordance with Government Code section 15606 to govern county assessors when assessing property under division 1, *Property Taxation*, (commencing with section 50) of the Revenue and Taxation Code (RTC). The BOE hereby proposes to make grammatical and formatting changes to the citations to the RTC in subdivisions (b), (c), (d), and (g) of California Code of Regulations, title 18, section (Rule) 263, *Roll Corrections*, to make the citations to the RTC consistent throughout Rule 263 and to generally make the citations to the RTC consistent with the format prescribed by the California Style Manual. The BOE also proposes to add an inadvertently omitted period to the end of Rule 263, subdivision (h)(2). The BOE has determined that the proposed changes to Rule 263 are appropriate for processing under California Code of Regulations, title 1, section (Rule) 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

2. Changes to Make Rules 462.020, 462.060, 462.160, 462.180, and 462.220 Consistent with the Enactment of RTC Section 62, Subdivision (p)

Article 4 (commencing with section 460) of chapter 4 of division 1 of title 18 of the California Code of Regulations contains property tax rules the BOE has adopted in accordance with Government Code section 15606 to implement, interpret, and make specific the provisions for determining whether real property has undergone a change in ownership, under chapter 2 (commencing with section 60) of part 0.5 of division 1 of the RTC, for property tax purposes. The BOE hereby proposes to change Rules 462.020, *Change in Ownership – Tenancies in Common*; 462.060, *Change in Ownership – Life Estates and Estates for Years*; 462.160, *Change in Ownership – Trusts*, 462.180, *Change in Ownership – Legal Entities*; and 462.220, *Change in Ownership – Interspousal Transfers*, which all refer to interspousal transfers, the exclusion from change in ownership for interspousal transfers, pursuant to RTC section 63, or both, to make the

rules consistent with the enactment of RTC section 62, subdivision (p), by Senate Bill No. (SB) 565 (Stats. 2005, ch. 416, § 2), which provides that change in ownership does not include any transfers between registered domestic partners.

As relevant here, RTC section 62, subdivision (p)(1), expressly provides that:

Commencing on January 1, 2000, [change in ownership shall not include:] any transfer between registered domestic partners, as defined in Section 297 of the Family Code, including, but not limited to:

- (A) Transfers to a trustee for the beneficial use of a registered domestic partner, or the surviving registered domestic partner of a deceased transferor, or by a trustee of such a trust to the registered domestic partner of the trustor.
- (B) Transfers that take effect upon the death of a registered domestic partner.
- (C) Transfers to a registered domestic partner or former registered domestic partner in connection with a property settlement agreement or decree of dissolution of a registered domestic partnership or legal separation.
- (D) The creation, transfer, or termination, solely between registered domestic partners, of any coowner's interest.
- (E) The distribution of a legal entity's property to a registered domestic partner or former registered domestic partner in exchange for the interest of the registered domestic partner in the legal entity in connection with a property settlement agreement or a decree of dissolution of a registered domestic partnership or legal separation.

And, the excluded transfers between registered domestic partners, pursuant to RTC section 62, subdivision (p), are identical to the interspousal transfers that are excluded from change in ownership, pursuant to RTC section 63. This is because RTC section 63 expressly provides that:

[A] change of ownership shall not include any interspousal transfer, including, but not limited to:

- (a) 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,
- (b) Transfers which take effect upon the death of a spouse,
- (c) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or
- (d) The creation, transfer, or termination, solely between spouses, of any coowner's interest.
- (e) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

Therefore, to make Rules 462.020, 462.060, 462.160, 462.180, and 462.220 consistent with the enactment of RTC section 62, subdivision (p), by SB 565, the BOE proposes to:

- Change Rule 462.020, subdivision (b)(3), to clarify that a transfer of a tenancy in common interest in real property is not a change in ownership if the transfer is one to which the interspousal exclusion, "pursuant to Revenue and Taxation Code section 63,

or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 63, subdivision (p)” applies;

- Change the first sentences in Rule 462.060, subdivisions (a) and (b), to clarify that the creation of a life estate or an estate for years for a term of 35 years or more in real property is not a change in ownership if the instrument creating the estate reserves such estate in the transferor’s spouse, “pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p)”;
- Change the second and third sentences in Rule 462.060, subdivisions (a) and (b), so that the sentences, which refer to a transferor’s “spouse,” also refer to a transferor’s “registered domestic partner”;
- Change the titles of Rule 462.160, subdivisions (b)(3) and (d)(4), which refer to “Interspousal Trusts,” so that the titles also refer to “Registered Domestic Partner” trusts;
- Change the first sentences in Rule 462.160, subdivisions (b)(3) and (d)(4), to clarify that the transfer of real property into a trust or the termination of a trust holding real property is not a change in ownership if the transfer into the trust or the termination of the trust results in a transfer to which the interspousal exclusion “pursuant to Revenue and Taxation Code section 63, or registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 63, subdivision (p)” applies;
- Change the second sentence in Rule 462.160, subdivision (b)(3), so that the sentence, which refers to a trustor-transferor’s “spouse,” also refers to a trustor-transferor’s “registered domestic partner”;
- Change the second paragraph in Rule 462.180, subdivision (d)(2), to clarify that, for purposes of subdivision (d)(2), interspousal transfers excluded under RTC section 63 and “transfers between registered domestic partners excluded under Revenue and Taxation Code section 62, subdivision (p)” shall not be cumulated or counted to determine a change in ownership;
- Change the title of Rule 462.220, which refers to “Interspousal Transfers,” so that the title also refers to “Registered Domestic Partner” transfers;
- Change the first sentence in Rule 462.220 to clarify that change in ownership does not include any interspousal transfer “pursuant to Revenue and Taxation Code section 63,” and add corresponding language explaining that change in ownership does not include “any transfer between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p)”;
- Change Rule 462.220, subdivisions (b), (d), (e), (f), and (h), which all contain references to “spouse,” so that each reference to “spouse” is accompanied by a corresponding reference to “registered domestic partner”;
- Change Rule 462.220, subdivisions (f) and (h), which refer to transfers to a spouse or former spouse in connection with a decree of dissolution of marriage, so that they also contain corresponding references to transfers to a “registered domestic partner” or former “registered domestic partner” in connection with a decree of dissolution of a “registered domestic partnership”; and
- Change Rule 462.220, subdivision (g), which refers to “spouses,” so that the subdivision also contains a corresponding reference to “registered domestic partners.”

The BOE has determined that the proposed changes to Rules 462.020, 462.060, 462.160, 462.180, and 462.220 (discussed above) are appropriate for processing under Rule 100 because the changes make the rules consistent with the enactment of RTC section 62, subdivision (p), by

SB 565, they are changes without regulatory effect, and they do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

3. Changes to Make Rule 462.020 Consistent with the Enactment of RTC Section 62.3

In addition, RTC section 62.3 was enacted by Assembly Bill No. (AB) 1700 (Stats. 2012, ch. 781, § 1) to provide an exclusion from change in ownership for certain transfers between cotenants that occur upon death, which applies to transfers occurring on or after January 1, 2013. Rule 462.020 addresses transfers of tenancy in common interests. Therefore, the BOE proposes to add a new subdivision (b)(5) to Rule 462.020 to make the rule consistent with RTC section 62.3 and provide additional notice that a transfer of tenancy in common interests is not a change in ownership if “The Transfer is one to which the cotenancy exclusion, pursuant to Revenue and Taxation Code section 62.3, applies.” The BOE has determined that this proposed change to Rule 462.020 is appropriate for processing under Rule 100 because the change makes the rule consistent with the enactment of RTC section 62.3 by AB 1700, it is a change without regulatory effect, and it does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

4. Changes to Rule 462.240 to Make the Rule Consistent with the Enactment of RTC Sections 62, subdivision (p), and 62.5

Further, Rule 462.240, *The Following Transfers Do Not Constitute a Change in Ownership*, addresses transfers that are not considered changes in ownership. Effective September 30, 2012, AB 2046 (Stats. 2012, ch. 817, § 1) added section 62.5 to the RTC to create a change in ownership exclusion for the transfer of a floating home marina to an entity formed by the tenants of the marina. Therefore, the BOE proposes to add language to Rule 462.240, subdivision (k), to make the rule consistent with the enactment of RTC section 62.5, by AB 2046, by providing that change in ownership does not include “Any transfer of a floating home marina pursuant to Revenue and Taxation Code section 62.5,” and adding RTC section 62.5 to Rule 462.240’s reference note.

Furthermore, the BOE added subdivision (k) to Rule 462.240 in 2003 to provide that change in ownership does not include “Any transfer of separate property inherited by a surviving domestic partner, as defined in subdivision (b) of section 37 of the Probate Code, by intestate succession upon the death of a registered domestic partner.” However, any transfer of separate property to a surviving registered domestic partner by intestate succession, on or after January 1, 2000, that would be excluded from change in ownership pursuant to the current provisions of Rule 462.240, subdivision (k), would now be excluded from change in ownership under the much broader provisions of RTC section 62, subdivision (p) (enacted in 2005), which apply to “any transfer between registered domestic partners” and specifically apply to “[t]ransfers that take effect upon the death of a registered domestic partner.” Therefore, the BOE also proposes to add a new subdivision (l) to Rule 462.240 to incorporate and provide additional notice regarding the provisions of RTC section 62, subdivision (p), enacted by SB 565 (discussed above), by broadly providing that change in ownership does not include “Any transfer of real property between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p).” And, the BOE proposes to delete the current, narrow provisions of Rule 462.240, subdivision (k), because they have been superseded by the enactment of RTC section 62, subdivision (p).

The BOE has determined that these changes to Rule 462.240 are appropriate for processing under Rule 100 because the changes make the rule consistent with the enactment of RTC section 62, subdivision (p), by SB 565, and the enactment of RTC section 62.5 by AB 2046, they are changes without regulatory effect, and the changes do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

5. Additional Grammatical and Formatting Changes to Rules 462.020, 462.160, 462.180, 462.220, and 462.240

Finally, the BOE hereby proposes to make the following additional grammatical and formatting changes to Rules 462.020, 462.160, 462.180, 462.220, and 462.240:

- Replace the word “co-tenancy” with the word “cotenancy” in Rule 462.020, subdivision (b)(1)(B) and (C).
- Replace the “%” symbols with the word “percent” in Rules 462.020, Example 1, 462.160, Example 1, and 462.180, Examples 1, 4, and 7.
- Replace the word “law” with a reference to the law being referred to, RTC section 63.1, in Rules 462.020, subdivision (b)(4), and 462.160, subdivisions (b)(4) and (d)(5).
- Make the citations to the RTC and Rules consistent throughout Rules 462.160, 462.180, 462.220, 462.240, and generally make the citations in these regulations consistent with the format prescribed in the California Style Manual.
- Correct the placement of quotations marks around “A Trust” and “B Trust” in Rule 462.160, Example 2, around “original co-owners” in Rule 462.180, Example 5, and around “A Trust” in Rule 462.220, Example 3.
- Replace the word “coowners” with the word “co-owners” in Rule 462.160, Example 4, and Rule 462.220, subdivision (c) and Example 2.
- Add the words “of this subdivision” to the end of Rule 462.160, subdivision (b)(6) and add the words “of this rule” to Rule 462.180, subdivisions (b)(2), (d), and (e)(1) and (2).
- Correct a typographical error by changing the word “owed” to the word “owned” in Rule 462.180, Example 1.
- Insert the word “legal” before the word “entity” in Rule 462.220, subdivision (h).

The BOE has determined that the foregoing grammatical and formatting changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

B. Proposed Changes

The following Rule 100 changes are proposed to Rules 263, 462.020, 462.060, 462.160, 462.180, 462.220, and 462.240:

TEXT OF PROPOSED CHANGES

Rule 263. Roll Corrections.

(a) . . . (unchanged).

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of Division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in Revenue and Taxation Code sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under Revenue and Taxation Code section 1605 and the procedure for applying for cancellation under Revenue and Taxation Code section 4986.

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) . . . (unchanged):

(1) . . . (unchanged).

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made.

(i) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

Rule 462.020. Change in Ownership – Tenancies in Common.

(a) General Rule. . . . (unchanged).

(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 interests of the co-owners, such as:

(A) . . . (unchanged),

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

(C) a transfer from a ~~co-tenancy~~cotenancy 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% percent interest. They transfer the property to a newly formed corporation each receiving 50% percent of the stock. Such a transfer would not be regarded as a change in ownership.

(2) . . . (unchanged).

Example 2: . . . (unchanged).

Example 3: . . . (unchanged).

(3) The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), 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~~Revenue and Taxation Code section 63.1.

(5) The transfer is one to which the cotenancy exclusion, pursuant to Revenue and Taxation Code section 62.3, applies.

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

Rule 462.060. Change in Ownership – Life Estates and Estates for Years.

(a) 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 transferor or the transferor's spouse, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such a life estate by the transferor or the transferor's spouse or registered domestic partner to a third party is a change in ownership. Upon termination of such a reserved life estate, the vesting of a right of possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse or registered domestic partner) is a change in ownership.

(b) 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, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such an estate for years by the transferor or the transferor's spouse or registered domestic partner 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 or registered domestic partner) 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.

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

Rule 462.160. Change in Ownership – Trusts.

(a) Creation. General Rule. . . . (unchanged).

(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% percent 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 the 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 Revenue and Taxation Code Section 63.1 and the interspousal exclusion of Revenue and Taxation Code Section 63 apply to the interests transferred to the two children and to W respectively. Upon the death of W, there is a change in ownership to the extent of the interests transferred to the nephew, although the parent/child exclusion of Revenue and Taxation Code 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. . . . (unchanged).

(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, subdivision (i), 64, subdivision (c), or 64, subdivision (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 ~~co-owners~~ co-owners, 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, subdivision (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. . . . (unchanged).

(3) Interspousal and Registered Domestic Partner Trusts. The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), applies. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor's spouse or registered domestic partner 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~~Revenue and Taxation Code section 63.1. 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. . . . (unchanged).

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

(c) Termination. General Rule. . . . (unchanged).

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

(1) Prior Change in Ownership. . . . (unchanged).

Example 5: . . . (unchanged).

(2) Revocable Trusts. . . . (unchanged).

(3) Trustor Reversion Trusts. . . . (unchanged).

(4) Interspousal and Registered Domestic Partner Trusts. Termination results in a transfer to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), 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~~Revenue and Taxation Code section 63.1.

(6) Proportional Interests. . . . (unchanged).

(7) Other Trusts. . . . (unchanged).

(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 Revenue and Taxation Code Section 64 of the Revenue and Taxation Code and Rule 462.180, which address legal entities.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 63.1, 63.1 note and 64, Revenue and Taxation Code.

Rule 462.180. Change in Ownership – Legal Entities.

(a) Transfers of Real Property to and by Legal Entities. General Rule. The transfer of any interest in real property to a corporation, partnership, limited liability company, or other legal entity is a change in ownership of the real property interest transferred. For purposes of this rule, “real property” or “interests in real property” includes real property interests and fractional interests thereof, the transfer of which constitute a change in ownership under Revenue and Taxation Code Sections 60 and the following applicable sections of the Revenue and Taxation Code, and under the applicable change in ownership provisions of the Property Tax Rules.

(b) Exceptions. . . . (unchanged):

(1) Affiliated Corporation Transfers. . . . (unchanged):

(A) . . . (unchanged), and

(B) . . . (unchanged).

SIMPLE EXAMPLE . . . (unchanged).

Example 1: Any 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% percent of A.

[Last sentence in subdivision (b)(1)] . . . (unchanged).

(2) Proportional Transfers of Real Property. Transfers of real property between separate legal entities or by an individual 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 each and every piece of real property transferred 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 interests, or other types of ownership interest, shall be defined as “original co-owners” for purposes of determining whether a change in ownership has occurred upon the subsequent transfer of the ownership interests in the legal entity.) This subdivision shall not apply to a transfer of real property which is also excluded from change in ownership pursuant to subdivision (b)(1) of this rule (transfers between or among affiliated corporations).

Examples of Transfers of Real Property in Legal Entities:

Example 2: . . . (unchanged).

Example 3: . . . (unchanged).

Example 4: Corporation X owns Blackacre and Whiteacre (both are of equal value). A & B each own 50% percent of Corporation X's shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of 100% percent of both Blackacre and Whiteacre. However, if Corporation X transfers Whiteacre and Blackacre to both A and B as joint tenants or as equal tenants in common, there is no change in ownership.

Example 5: A transfer of real property from Corporation X to its sole shareholder A. No change in ownership, even if A is an "original co-owner," because interests in real property, and not ownership interests in a legal entity, are being transferred.

(c) Transfers of ownership interests in legal entities. General Rule. The purchase or transfer of corporate stock, partnership interests, or ownership interests in other legal entities is not a change in ownership of the real property of the legal entity, pursuant to Revenue and Taxation Code Section 64, subdivision (a) ~~of the Revenue and Taxation Code~~.

(d) Exceptions. The following transfers constitute changes in ownership, except as provided in subdivision (d)(4) of this rule which is an exclusion from change in ownership:

(1) Control. . . . (unchanged):

(A) obtains through a reorganization or any transfer, 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 subdivision (b)(1) of this rule, or

(B) . . . (unchanged), or

(C) . . . (unchanged).

[Last sentence in subdivision (d)(1)] . . . (unchanged).

(2) Transfers of More than 50 Percent. When on or after March 1, 1975, real property is transferred to a partnership, corporation, limited liability company, or other legal entity and the transfer is excluded from change in ownership under Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~, and the "original co-owners" subsequently transfer, in one or more transactions, cumulatively more than 50 percent of the total control or ownership interests, as defined in subdivision (d)(1) of this rule, in that partnership, corporation, limited liability company or legal entity, there is a change in ownership of only that property owned by the entity which was previously excluded under Section 62, subdivision (a)(2). However, when such transfer would also result in a change in control under Revenue and Taxation Code Section 64, subdivision (c) ~~of the Revenue and Taxation Code~~, then reappraisal of the property owned by the

corporation, partnership, limited liability company, or other legal entity shall be pursuant to Section 64, subdivision (c) rather than Section 64, subdivision (d).

For purposes of this subdivision ((d)(2)), interspousal transfers excluded under ~~Section 63 of the Revenue and Taxation Code section 63~~, transfers between registered domestic partners excluded under Revenue and Taxation Code section 62, subdivision (p), transfers into qualifying trusts excluded under Revenue and Taxation Code Section 62, subdivision (d) ~~of the Revenue and Taxation Code~~, and proportional transfers excluded under Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~ shall not be cumulated or counted to determine a change in ownership.

Examples of Transfers of Interests in Legal Entities:

Example 6: A and B each own 50 percent of the stock of Corporation X. Corporation X acquires Whiteacre from Corporation Y, an unaffiliated corporation in which neither A nor B has interests, and Whiteacre is reappraised upon acquisition. A transfers 30 percent of Corporation X's stock to C, and B later transfers 25 percent of Corporation X's stock to C. Upon C's acquisition of 55 percent of Corporation X's stock, there is a change in control of Corporation X under Revenue and Taxation Code Section 64, subdivision (c) and a reappraisal of Whiteacre.

Example 7: Spouses H and W acquire as community property 100% percent of the capital and profits interests in an LLC which owns Blackacre. Each of H and W is treated as acquiring 50 percent of the ownership interests as defined in subdivision (c) of this rule and Revenue and Taxation Code section 64, subdivision (a). Since the selling members of the LLC are not original co-owners (because they did not transfer the property to the LLC under the Revenue and Taxation Code Section 62, subdivision (a)(2) exclusion), no change in control of the LLC would occur under Revenue and Taxation Code section 64, subdivision (c) and no change in ownership of Blackacre under Revenue and Taxation Code section 64, subdivision (d).

Example 8: A and B, hold equal interests as tenants in common in Greenacre, a parcel of real property. A and B transfer Greenacre to Corporation Y and in exchange A and B each receive 50 percent of the corporate stock. No change in ownership pursuant to Revenue and Taxation Code Section 62, subdivision (a)(2). Pursuant to Revenue and Taxation Code Section 64, subdivision (d), A and B become original coowners. A transfers 30 percent of Corporation Y's stock to C (A's child), and B then transfers 25 percent of Corporation Y's stock to D (B's grandchild). Change in ownership of Greenacre upon B's transfer to D. Parent/child and grandparent/grandchild exclusions are not applicable to transfers of interests in legal entities. However, if the same transfers were made by A and B to their respective spouses, no change in ownership pursuant to Revenue and Taxation Code Section 63 and Rule 462.220.

(3) Cooperative Housing Corporation. When the stock transferred in a cooperative housing corporation ("stock cooperative" as defined in subdivision (m) of Section 1351 of the Civil Code) conveys the exclusive right to occupancy of all or part of the corporate property, unless:

(A) 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

(B) . . . (unchanged), and

(C) . . . (unchanged).

(4) Proportional Interest Transfers. Transfers of stock, partnership interests, limited liability company interests, or any other interests in legal entities between legal entities or by an individual to a legal entity (or vice versa) which result solely in a change in the method of holding title and in which proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership, as provided in subdivision (b)(2) of this rule and Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~. This provision shall not apply to a statutory conversion or statutory merger of a partnership into a limited liability company or other partnership (or a limited liability company into a partnership) when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the converting or disappearing entity maintain the same ownership interest in profits and capital of the converted or surviving entity that they held in the converting or disappearing entity.

Examples of Excluded Proportional Interest Transfers:

Example 9: General Partnership (GP), which owns Whiteacre and in which A and B hold equal partnership interests, converts to Limited Partnership (LP) under the Revised Uniform Partnership Act of 1994 (California Corporations Code section 16100 et seq.). As a result of the conversion, A and B each hold 50 percent of the LP interests in capital and profits. No change in ownership of Whiteacre upon the conversion, because, under Section 16909 of the Corporations Code, there is no transfer of Whiteacre. Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~ does not apply. However, if A and B were “original coowners” in GP, they remain “original coowners” in LP.

Example 10: Following the conversion in Example 9, A and B each transfer 30 percent of their capital and profits interests in LP to Limited Liability Company (LLC), which is owned equally by A and B. Each retain an equal 20 percent interest in LP. No change in ownership of Whiteacre pursuant to Revenue and Taxation Code Section 62, subdivision (a)(2) because A and B own 100 percent of both LP and LLC and their respective proportional interests remain the same after the transfer. Neither Revenue and Taxation Code section 64, subdivision (c) nor ~~section 64~~ subdivision (d) ~~of the Revenue and Taxation Code~~ applies to this transfer, although A and B become “original coowners” with respect to their interests in LLC.

Example 11: A limited partnership (LP), which owns Blackacre and in which C and D hold equal partnership interests, changes its form to a limited liability company (LLC), in which C

and D hold equal membership interests, by statutory merger under the California Revised Limited Partnership Act (California Corporations Code section 15611 et seq.) and the Beverly-Killea Limited Liability Company Act (California Corporations Code section 17000 et seq.). No change in ownership of Blackacre upon the change in form because under section 17554 of the ~~California~~ Corporations Code, there is not a transfer of property from LP to LLC. Revenue and Taxation Code Section 62, subdivision (a)(2) ~~of the Revenue and Taxation Code~~ does not apply. However, if C and D were “original coowners” in LP, they remain “original coowners” in LLC.

(e) Partnerships.

(1) Transfers of Real Property by Partnerships. General Rule. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, 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 partners with or without reference to the partnership. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, 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.

(2) Except as provided in subdivision (d)(1)(B) and (d)(2) of this rule, the addition or deletion of partners in a continuing partnership does not constitute a change in ownership of partnership property.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 63, 64 and 67, Revenue and Taxation Code; Sections 16909 and 17554, Corporations Code; and Section 1351, Civil Code.

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

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

(a) . . . (unchanged),

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

Example 1: . . . (unchanged).

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

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

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

(e) Transfers which take effect upon the death of a spouse or registered domestic partner,

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

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

(g) The creation, transfer, or termination, solely between spouses or registered domestic partners, of any co-owner’s interest, or

(h) The distribution of property of a corporation, partnership, or other legal entity to a spouse or registered domestic partner or former spouse or registered domestic partner having an ownership interest in the legal entity, in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement, or decree of dissolution of a marriage or registered domestic partnership, or legal separation.

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

Rule 462.240. The Following Transfers Do Not Constitute a Change in Ownership.

The following transfers do not constitute a change in ownership:

(a) . . . (unchanged),

(1) . . . (unchanged).

(2) . . . (unchanged).

(b) . . . (unchanged).

(c) . . . (unchanged).

(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 by 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 Revenue and Taxation Code Section 66, subdivision (b) ~~of the Revenue and Taxation Code~~ and this rule ~~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 Revenue and Taxation Code 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 transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(f) . . . (unchanged).

Example 1: . . . (unchanged).

(g) . . . (unchanged).

(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 Revenue and Taxation Code Section 62, subdivision (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 Revenue and Taxation Code 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 Revenue and Taxation Code Section 62.2 ~~of the Revenue and Taxation Code~~.

(k) Any transfer of a floating home marina pursuant to Revenue and Taxation Code section 62.5. ~~Any transfer of separate property inherited by a surviving domestic partner, as defined in subdivision (b) of section 37 of the Probate Code, by intestate succession upon the death of a registered domestic partner.~~

(l) Any transfer of real property between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 60, 61, 62, 62.1, 62.2, 62.5, 64, 66 and 67, Revenue and Taxation Code; and Sections 37, 6401 and 6402, Probate Code.

Assembly Bill No. 1700

CHAPTER 781

An act to add Section 62.3 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 2012. Filed with Secretary of State September 29, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1700, Butler. Property taxation: change in ownership: exclusion: cotenancy interests.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests results in a change in ownership of the real property, and provides that certain transfers do not result in a change of ownership.

This bill would provide that a transfer of a cotenancy interest, as defined, in real property from one cotenant to the other that takes effect upon the death of the transferor cotenant and that occurs on or after January 1, 2013, does not constitute a change of ownership, as provided. This bill would require the transferee cotenant to sign an affidavit, as specified, under penalty of perjury.

By imposing new duties upon local tax officials with respect to changes in ownership of real property, and by requiring the transferor cotenant to sign an affidavit under penalty of perjury which would expand the scope of the existing crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost

as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 62.3 is added to the Revenue and Taxation Code, to read:

62.3. (a) Notwithstanding any other provision in this chapter, a change in ownership shall not include a transfer of a cotenancy interest in real property from one cotenant to the other that takes effect upon the death of the transferor cotenant if all of the following conditions apply:

(1) The transfer is solely by and between two individuals who together own 100 percent of the real property in joint tenancy or as tenants in common.

(2) As a result of the death of the transferor cotenant, the deceased cotenant's tenancy in common or joint tenancy interest in the real property is transferred to the surviving cotenant, which results in the surviving cotenant holding a 100-percent ownership interest in the real property immediately after the transfer, thereby terminating the cotenancy.

(3) For the one-year period immediately preceding the transfer, the real property was coowned by the transferor and the transferee, and both cotenants have been the owners of record of that real property.

(4) The real property constituted the principal residence of both cotenants immediately preceding the transferor cotenant's death.

(5) The transferor and the transferee continuously resided at that residence for the one-year period immediately preceding the transfer.

(6) The transferee has signed, under penalty of perjury, an affidavit affirming that he or she continuously resided with the transferor at the residence for the one-year period immediately preceding the transfer.

(b) A transfer of cotenancy interest in real property from one cotenant to the other shall take effect upon the death of the transferor cotenant under any of the following circumstances:

(1) Pursuant to the transferor cotenant's will or trust, upon the death of the transferor cotenant.

(2) Through intestate succession from the transferor cotenant.

(3) By operation of law, upon the death of the transferor cotenant.

(c) The exclusion provided by this section shall not apply to any transfer of real property interests for which a separate exclusion in this chapter applies.

(d) For purposes of this section, both of the following apply:

(1) “Cotenancy interest” means an interest in real property held only as tenants in common or joint tenants.

(2) “Principal residence” means a dwelling eligible for either the homeowners’ exemption or the disabled veterans’ exemption.

(e) This section shall only apply to transfers that occur on or after January 1, 2013.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Assembly Bill No. 2046

CHAPTER 817

An act to add Section 62.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 2012. Filed with
Secretary of State September 30, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2046, Allen. Property taxation: change in ownership: exclusion: floating homes.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests results in a change in ownership of the real property, and provides that certain transfers do not result in a change of ownership.

This bill would provide that a transfer of a floating home marina, as defined, to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a floating home marina for the purpose of purchasing the floating home marina does not constitute a change in ownership, provided that a specified condition is met. This bill would also provide that, if the transfer of a floating home marina has been excluded from a change in ownership and the floating home marina has not been converted, as specified, any transfer of shares of the voting stock of, or other ownership or membership interests in, the entity that acquired the floating home marina shall be a change in ownership of a pro rata portion of the real property, as defined, of the floating home marina. This bill would require a floating home marina that does not utilize recorded deeds to transfer ownership interest in the berths to file a report with the county assessor's office, as specified. This bill would require the new resident owner or other purchaser or transferee of a floating home within a floating home marina that does not utilize recorded deeds to transfer ownership interest in the berths to file a specified change in ownership statement, which is required to be filed under penalty of perjury, within 30 days of a change in ownership.

By imposing new duties upon local officials with respect to changes in ownership of floating home marinas, and by expanding the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 62.5 is added to the Revenue and Taxation Code, to read:

62.5. (a) Notwithstanding any provision of this chapter, a change in ownership shall not include a transfer of a floating home marina to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a floating home marina for the purpose of purchasing the floating home marina, provided that the individual tenants who were renting at least 51 percent of the berths in the floating home marina prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity that acquires the floating home marina.

(b) (1) If the transfer of a floating home marina has been excluded from a change in ownership pursuant to subdivision (a) and the floating home marina has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer of shares of the voting stock of, or other ownership or membership interests in, the entity that acquired the floating home marina in accordance with subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the floating home marina, unless the transfer is for the purpose of converting the floating home marina to condominium, stock cooperative ownership, or limited equity cooperative ownership, or is excluded from change in ownership by Section 62, 63, or 63.1.

(2) A floating home marina that does not utilize recorded deeds to transfer ownership interest in the berths shall file, by February 1 of each year, a

report with the county assessor's office containing all of the following information:

(A) The full name and mailing address of each owner, stock holder, or holder of an ownership interest in the floating home marina.

(B) The situs address, including berth number and dock, of each unit.

(C) The date the ownership interest was acquired.

(D) The Department of Housing and Community Development decal number or serial number, or both.

(3) Within 30 days of a change in ownership, the new resident owner or other purchaser or transferee of a floating home within a floating home marina that does not utilize recorded deeds to transfer ownership interest in the berths, shall file a change in ownership statement described in either Section 480 or 480.2.

(c) For purposes of this section, both of the following shall apply:

(1) "Floating home marina" has the same meaning as defined in Section 800.4 of the Civil Code.

(2) "Pro rata portion of the real property" means the total real property of the floating home marina multiplied by a fraction consisting of the number of shares of voting stock, or other ownership or membership interests, transferred divided by the total number of outstanding issued or unissued shares of voting stock of, or other ownership or membership interests in, the entity that acquired the floating home marina in accordance with subdivision (a).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Senate Bill No. 565

CHAPTER 416

An act to amend Section 62 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 2005. Filed with Secretary of State September 29, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 565, Migden. Property tax reappraisal exclusion: domestic partners.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing law excludes from the definition of "change in ownership" specified transfers of real property between family members and transfers made for the purpose of perfecting title to property.

This bill would, commencing with the lien date for the 2006-07 fiscal year, exclude from the definition of "change in ownership" any transfer of property between registered domestic partners.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature in enacting this act to guarantee equality for all Californians, regardless of gender or sexual orientation, and to further the state's interests in protecting Californians from the potentially severe economic and social consequences of abandonment, separation, the death of a partner, and other life crises.

(b) To this end, the Legislature has enacted various statutes in an attempt to move California closer to fulfilling the promises of inalienable

rights, liberty, and equality contained in Sections 1 and 7 of Article I of the California Constitution.

(c) For example, in 2002, the Legislature enacted Chapter 447 of the Statutes of 2002, effective July 1, 2003, which granted registered domestic partners the same intestate succession rights with respect to separate property as spouses. A liberal reading of Chapter 447 was intended by the Legislature and this act builds upon that framework.

(d) Many lesbian, gay, and bisexual Californians continue to face economic discrimination, despite forming lasting, committed, and caring relationships with persons of the same sex according to the laws of this state. These couples build lives together, as do spouses, by purchasing property and creating and operating family businesses. Expanding the rights of registered domestic partners with respect to property ownership would further California's interests in promoting family relationships and protecting family members during life crises, and would reduce discrimination on the bases of sex and sexual orientation in a manner consistent with the California Constitution.

SEC. 2. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) (1) Any transfer between coowners that results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) of Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life. However, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than manufactured homes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), that are on leased land have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) 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.

(i) Any transfer of stock or membership certificate in a housing cooperative that was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975, to March 1, 1981, between coowners in any property that was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980-81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980-81 fiscal year.

(k) 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 these corporations, or any combination thereof (including any transfer from one entity to the same type of entity), provided that both the

transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(l) Any transfer, that would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income that, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars (\$20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or "ward" includes a minor or an adult. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984-85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984-85 fiscal year.

(o) Any transfer of a possessory interest in tax-exempt real property 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.

(p) Commencing with the lien date for the 2006-07 fiscal year, any transfer between registered domestic partners, as defined in Section 297 of the Family Code, including, but not limited to:

(1) Transfers to a trustee for the beneficial use of a registered domestic partner, or the surviving registered domestic partner of a deceased

transferor, or by a trustee of such a trust to the registered domestic partner of the trustor.

(2) Transfers that take effect upon the death of a registered domestic partner.

(3) Transfers to a registered domestic partner or former registered domestic partner in connection with a property settlement agreement or decree of dissolution of a registered domestic partnership or legal separation.

(4) The creation, transfer, or termination, solely between registered domestic partners, of any coowner's interest.

(5) The distribution of a legal entity's property to a registered domestic partner or former registered domestic partner in exchange for the interest of the registered domestic partner in the legal entity in connection with a property settlement agreement or a decree of dissolution of a registered domestic partnership or legal separation.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

Memorandum

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

Date: August 22, 2013

From: Randy Ferris 
Chief Counsel

Subject: Board Meeting, September 10, 2013
Item J, Chief Counsel's Rulemaking Calendar
Property Tax Rules 263, 462.020, 462.060, 462.160, 462.180, 462.220, 462.240

We request your approval to place proposed changes to Property Tax Rules 263, *Roll Corrections*, 462.020, *Change in Ownership – Tenancies in Common*; 462.060, *Change in Ownership – Life Estates and Estates for Years*; 462.160, *Change in Ownership – Trusts*, 462.180, *Change in Ownership – Legal Entities*; 462.220, *Change in Ownership – Interspousal Transfers*; and 462.240, *The Following Transfers Do Not Constitute a Change in Ownership*, on the Chief Counsel's Rulemaking Calendar for the September 10, 2013, Board meeting. The proposed changes make Property Tax Rules 462.020, 462.060, 462.160, 462.180, 462.220, and 462.240 consistent with recent legislative enactments.

Revenue and Taxation Code (RTC) section 62, subdivision (p) was enacted by Senate Bill No. 565 (Stats. 2005, ch. 416, § 2) and provides that a change in ownership does not include certain transfers between registered domestic partners. The excluded transfers are identical to the interspousal transfers that are excluded from change in ownership under RTC section 63.

Property Tax Rules 462.020, 462.060, 462.160, 462.180, and 462.220 all refer to the interspousal transfer exclusion from change in ownership. Therefore, to be consistent, these rules should be amended to include the exclusion from change in ownership for transfers between registered domestic partners in RTC section 62, subdivision (p).

In addition, RTC section 62.3 was enacted by Assembly Bill No. (AB) 1700 (Stats. 2012, ch. 781, § 1) to provide an exclusion from change in ownership for certain transfers between cotenants that occur upon death. Property Tax Rule 462.020 addresses transfers of tenancy in common interests. Therefore, Rule 462.020 should be amended to include the new exclusion provided by RTC section 62.3 for transfers of cotenancy interests between cotenants.

Further, Property Tax Rule 462.240 addresses transfers that are not considered changes in ownership. Effective September 30, 2012, AB 2046 (Stats. 2012, ch. 817, § 1) added section 62.5 to the RTC to create a change in ownership exclusion for the transfer of a floating home

marina to an entity formed by the tenants of the marina. Therefore, Property Tax Rule 462.240 should be amended to include the exclusion from change in ownership for transfers of floating homes created by the enactment of RTC section 62.5 and the previously discussed exclusion from change in ownership for transfers between registered domestic partners provided in RTC section 62, subdivision (p).

Finally, the proposed changes add an inadvertently omitted period to the end of Property Tax Rule 263, subdivision (h)(2). The proposed changes make the citations to the Revenue and Taxation Code and Property Tax Rules consistent throughout Property Tax Rules 263, 462.160, 462.180, 462.220, 462.240, and generally make the citations in these regulations consistent with the format prescribed in the California Style Manual. The proposed changes replace the word "law" with a reference to the law being referred to, RTC section 63.1, in Property Tax Rules 462.020, subdivision (b)(4), and 462.160, subdivisions (b)(4) and (d)(5). The proposed changes replace the word "co-tenancy" with the word "cotenancy" in Property Tax Rule 462.020, subdivision (b)(1)(B) and (C), replace the word "coowners" with the word "co-owners" in Property Tax Rule 462.160, example 4 and Property Tax Rule 462.220, subdivision (c) and example 2, and replace the "%" symbol with the word "percent" in Property Tax Rules 462.020, 462.160, and 462.180. The proposed changes also correct a typographical error by changing the word "owed" to the word "owned" in Property Tax Rule 462.180, example 1, and correct the placement of quotations marks in Property Tax Rules 462.160, example 2, 462.180, example 5, and 462.220, example 3. Attached are strikeout and underline versions of the Property Tax Rules illustrating all of the proposed changes.

Based on the foregoing, Board staff will request the Board's authorization to change Property Tax Rules 263, 462.020, 462.060, 462.160, 462.180, 462.220, and 462.240 under California Code of Regulations, title 1, section (Rule) 100 without the normal notice and public hearing process. These changes to the California Code of Regulations are appropriate for processing under Rule 100 because they make the code consistent with recent legislative enactments, make minor grammatical and formatting edits, and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

If you have any questions regarding this request, please let me know or contact Mr. Bradley Heller at 916-323-3091.

Recommendation by:


Randy Ferris, Chief Counsel

Approved:

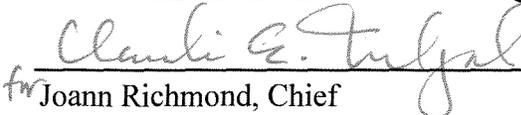

Cynthia Bridges, Executive Director

Approved:


David Gau, Deputy Director
Property and Special Taxes Department

BOARD APPROVED

At the 9/10/13 Board Meeting


for Joann Richmond, Chief
Board Proceedings Division

RF:bmh;yg

Attachment

cc:	Mr. Robert Tucker	MIC:82
	Mr. David Gau	MIC:63
	Ms. Joann Richmond	MIC:80
	Mr. Dean Kinnee	MIC:64
	Mr. Bradley Heller	MIC:82
	Mr. Richard Moon	MIC:82
	Mr. Daniel Paul	MIC:82
	Ms. Glenna Schultz	MIC:64

RULE 263. ROLL CORRECTIONS.

Authority: Section 15606, Government Code.

Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

(a) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of Division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in Revenue and Taxation Code sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under Revenue and Taxation Code section 1605 and the procedure for applying for cancellation under Revenue and Taxation Code section 4986.

(e) If a correction will decrease the amount of unpaid taxes, the consent of the board of supervisors is necessary to make the correction.

(f) Corrections authorized under this rule shall be made by the auditor upon delivery of the relevant information by the assessor.

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) If the roll of any taxing agency in the course of preparation is lost or destroyed because of public calamity and is reconstructed from available data, at any time before the declaration of default, the assessor may correct any erroneous assessment. The assessor shall:

(1) Send certified notices of the correction to the tax collector, the auditor, and the Controller.

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made.

(i) On receipt of satisfactory, verified, written evidence that taxes have been entered on the secured roll as a lien on real property on which they are not legally a lien, the assessor shall transmit the evidence and his or her cancellation to the auditor. On direction of the board of supervisors, the auditor shall cancel the entry as a lien on that real property and reenter such taxes as follows:

(1) If the assessee has real property sufficient, in the assessor's opinion, to secure the payment of the taxes, as a lien on real property.

(2) Where there is not sufficient real property to secure the taxes on locally-assessed property, the taxes shall be placed on the unsecured roll. In the case of state-assessed property, the taxes shall be placed on the secured roll.

RULE 462.020. CHANGE IN OWNERSHIP—TENANCIES IN COMMON.

Authority: Section 15606, Government Code.

Reference: Sections 60, 61, 62, 63, 63.1, 65, 65.1 and 67, Revenue and Taxation 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 interests of the co-owners, such as:

(A) a partition,

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

(C) a transfer from a ~~co-tenancy~~cotenancy 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% percent interest. They transfer the property to a newly formed corporation each receiving 50% percent 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 equal 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.

(3) The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), 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 Revenue and Taxation Code section 63.1.

(5) The transfer is one to which the cotenancy exclusion, pursuant to Revenue and Taxation Code section 62.3, applies.

RULE 462.060. CHANGE IN OWNERSHIP—LIFE ESTATES AND ESTATES FOR YEARS.

Authority: Section 15606, Government Code.

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

(a) 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 transferor or the transferor's spouse, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such a life estate by the transferor or the transferor's spouse or registered domestic partner to a third party is a change in ownership. Upon termination of such a reserved life estate, the vesting of a right to possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse or registered domestic partner) is a change in ownership.

(b) 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, pursuant to Revenue and Taxation Code section 63, or registered domestic partner, pursuant to Revenue and Taxation Code section 62, subdivision (p). However, the subsequent transfer of such an estate for years by the transferor or the transferor's spouse or registered domestic partner 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 or

registered domestic partner) 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.

RULE 462.160. CHANGE IN OWNERSHIP—TRUSTS.

Authority: Section 15606, Government Code.

Reference: Sections 60, 61, 62, 63, 63.1, 63.1 note and 64, Revenue and Taxation 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% percent 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 Trust₁"; and the assets of the surviving spouse shall be distributed to "B Trust₁"; 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 Revenue and Taxation Code Section 63.1 and the interspousal exclusion of Revenue and Taxation Code Section 63 apply to the interests transferred to the two children and to W respectively. Upon the death of W, there is a change in ownership to the extent of the interests transferred to the nephew, although the parent/child exclusion of Revenue and Taxation Code 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, subdivision (i), 64, subdivision (c), or 64, subdivision (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 ~~co-owners~~ co-owners, 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, subdivision (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 and Registered Domestic Partner Trusts. The transfer is one to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), applies. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor's spouse or registered domestic partner 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 Revenue and Taxation Code section 63.1. 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) of this subdivision.

(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.

(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 and Registered Domestic Partner Trusts. Termination results in a transfer to which the interspousal exclusion, pursuant to Revenue and Taxation Code section 63, or the registered domestic partner exclusion, pursuant to Revenue and Taxation Code section 62, subdivision (p), 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 Revenue and Taxation Code section 63.1.

(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 Revenue and Taxation Code Section 64 of the Revenue and Taxation Code and Rule 462.180, which address legal entities.

RULE 462.180. CHANGE IN OWNERSHIP—LEGAL ENTITIES.

Authority: Section 15606, Government Code.

Reference: Sections 60, 61, 62, 63, 64, and 67, Revenue and Taxation Code; Sections 16909 and 17554, Corporations Code; and Section 1351, Civil Code.

(a) TRANSFERS OF REAL PROPERTY TO AND BY LEGAL ENTITIES.

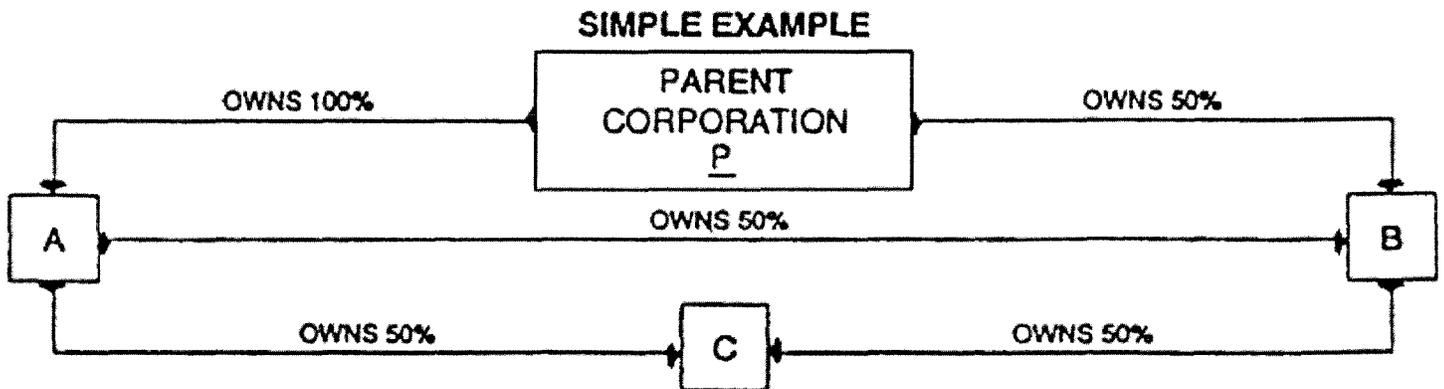
General Rule. The transfer of any interest in real property to a corporation, partnership, limited liability company, or other legal entity is a change in ownership of the real property interest transferred. For purposes of this rule, "real property" or "interests in real property" includes real property interests and fractional interests thereof, the transfer of which constitute a change in ownership under Revenue and Taxation Code Sections 60 and the following applicable sections of the Revenue and Taxation Code, and under the applicable change in ownership provisions of the Property Tax Rules.

(b) EXCEPTIONS. The following transfers do not constitute changes in ownership of the real property:

(1) **Affiliated Corporation Transfers.** Transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization if:

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

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



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 1: Any 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% percent of A.

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

(2) Proportional Transfers of Real Property. Transfers of real property between separate legal entities or by an individual 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 each and every piece of real property transferred 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 interests, or other types of ownership interest, shall be defined as "original co-owners" for purposes of determining whether a change in ownership has occurred upon the subsequent transfer of the ownership interests in the legal entity.) This subdivision shall not apply to a transfer of real property which is also excluded from change in ownership pursuant to subdivision (b)(1) of this rule (transfers between or among affiliated corporations).

Examples of Transfers of Real Property in Legal Entities:

Example 2: 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. However, if A and B each take back 49 percent of the stock and C receives 2 percent of the stock then there will be a change in ownership of the entire property.

Example 3: 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.

Example 4: Corporation X owns Blackacre and Whiteacre (both are of equal value). A and B each own 50% percent of Corporation X's shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of 100% percent of both Blackacre and Whiteacre. However, if Corporation X transfers Whiteacre and Blackacre to both A and B as joint tenants or as equal tenants in common, there is no change in ownership.

Example 5: A transfer of real property from Corporation X to its sole shareholder A. No change in ownership, even if A is an "original co-owner," because interests in real property, and not ownership interests in a legal entity, are being transferred.

(c) TRANSFERS OF OWNERSHIP INTERESTS IN LEGAL ENTITIES.

General Rule. The purchase or transfer of corporate stock, partnership interests, or ownership interests in other legal entities is not a change in ownership of the real property of the legal entity, pursuant to Revenue and Taxation Code Section 64, subdivision (a) of the Revenue and Taxation Code.

(d) EXCEPTIONS. The following transfers constitute changes in ownership, except as provided in subdivision (d)(4) of this rule which is an exclusion from change in ownership:

(1) Control. When any corporation, partnership, limited liability company, Massachusetts business trust or similar trust, other legal entity or any person:

(A) obtains through a reorganization or any transfer, 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 subdivision (b)(1) of this rule, or

(B) obtains through multi-tiering, reorganization, or any transfer direct or indirect ownership of more than 50 percent of the total interest in partnership or LLC capital and more than 50 percent of the total interest in partnership or LLC profits, or

(C) obtains through any transfer direct or indirect ownership 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, which may include any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained, all of the property owned directly or indirectly by the acquired legal entity is deemed to have undergone a change in ownership.

(2) Transfers of More Than 50 Percent. When on or after March 1, 1975, real property is transferred to a partnership, corporation, limited liability company, or other legal entity and the transfer is excluded from change in ownership under Revenue and Taxation Code Section 62, subdivision (a)(2) of the Revenue and Taxation Code, and the "original co-owners" subsequently transfer, in one or more transactions, cumulatively more than 50 percent of the total control or ownership interests, as defined in subdivision (d)(1) of this rule, in that partnership, corporation, limited liability company or legal entity, there is a change in ownership of only that property owned by the entity which was previously

excluded under Section 62, subdivision (a)(2). However, when such transfer would also result in a change in control under Revenue and Taxation Code Section 64, subdivision (c) of the Revenue and Taxation Code, then reappraisal of the property owned by the corporation, partnership, limited liability company, or other legal entity shall be pursuant to Section 64, subdivision (c) rather than Section 64, subdivision (d).

For purposes of this subdivision ((d)(2)), interspousal transfers excluded under ~~Section 63~~ of the Revenue and Taxation Code section 63, transfers between registered domestic partners excluded under Revenue and Taxation Code section 62, subdivision (p), transfers into qualifying trusts excluded under Revenue and Taxation Code Section 62, subdivision (d) of the Revenue and Taxation Code, and proportional transfers excluded under Revenue and Taxation Code Section 62, subdivision (a)(2) of the Revenue and Taxation Code shall not be cumulated or counted to determine a change in ownership.

Examples of Transfers of Interests in Legal Entities:

Example 6: A and B each own 50 percent of the stock of Corporation X. Corporation X acquires Whiteacre from Corporation Y, an unaffiliated corporation in which neither A nor B has interests, and Whiteacre is reappraised upon acquisition. A transfers 30 percent of Corporation X's stock to C, and B later transfers 25 percent of Corporation X's stock to C. Upon C's acquisition of 55 percent of Corporation X's stock, there is a change in control of Corporation X under Revenue and Taxation Code Section 64, subdivision (c) and a reappraisal of Whiteacre.

Example 7: Spouses H and W acquire as community property 100% percent of the capital and profits interests in an LLC which owns Blackacre. Each of H and W is treated as acquiring 50 percent of the ownership interests as defined in subdivision (c) of this rule and Revenue and Taxation Code section 64, subdivision (a). Since the selling members of the LLC are not original co-owners (because they did not transfer the property to the LLC under the Revenue and Taxation Code Section 62, subdivision (a)(2) exclusion), no change in control of the LLC would occur under Revenue and Taxation Code section 64, subdivision (c) and no change in ownership of Blackacre under Revenue and Taxation Code section 64, subdivision (d).

Example 8: A and B, hold equal interests as tenants in common in Greenacre, a parcel of real property. A and B transfer Greenacre to Corporation Y and in exchange A and B each receive 50 percent of the corporate stock. No change in ownership pursuant to Revenue and Taxation Code Section 62, subdivision (a)(2). Pursuant to Revenue and Taxation Code Section 64, subdivision (d), A and B become original coowners. A transfers 30 percent of Corporation Y's stock to C (A's child), and B then transfers 25 percent of

Corporation Y's stock to D (B's grandchild). Change in ownership of Greenacre upon B's transfer to D. Parent/child and grandparent/grandchild exclusions are not applicable to transfers of interests in legal entities. However, if the same transfers were made by A and B to their respective spouses, no change in ownership pursuant to Revenue and Taxation Code Section 63 and Rule 462.220.

(3) Cooperative Housing Corporation. When the stock transferred in a cooperative housing corporation ("stock cooperative" as defined in subdivision (m) of Section 1351 of the Civil Code) conveys the exclusive right to occupancy of all or part of the corporate property, unless:

(A) 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

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

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

(4) Proportional Interest Transfers. Transfers of stock, partnership interests, limited liability company interests, or any other interests in legal entities between legal entities or by an individual to a legal entity (or vice versa) which result solely in a change in the method of holding title and in which proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership, as provided in subdivision (b)(2) of this rule and Revenue and Taxation Code Section 62, subdivision (a)(2) of the ~~Revenue and Taxation Code~~. This provision shall not apply to a statutory conversion or statutory merger of a partnership into a limited liability company or other partnership (or a limited liability company into a partnership) when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the converting or disappearing entity maintain the same ownership interest in profits and capital of the converted or surviving entity that they held in the converting or disappearing entity.

Examples of Excluded Proportional Interest Transfers:

Example 9: General Partnership (GP), which owns Whiteacre and in which A and B hold equal partnership interests, converts to Limited Partnership (LP) under the Revised Uniform Partnership Act of 1994 (California Corporations Code section 16100 et seq.). As a result of the conversion, A and B each hold 50 percent of the LP interests in capital and profits. No change in ownership of Whiteacre upon the conversion, because, under Section 16909 of the Corporations Code, there is no transfer of Whiteacre. Revenue and Taxation Code Section 62, subdivision (a)(2) of the Revenue and Taxation Code does not apply. However, if A and B were "original coowners" in GP, they remain "original coowners" in LP.

Example 10: Following the conversion in Example 9, A and B each transfer 30 percent of their capital and profits interests in LP to Limited Liability Company (LLC), which is owned equally by A and B. Each retain an equal 20 percent interest in LP. No change in ownership of Whiteacre pursuant to Revenue and Taxation Code Section 62, subdivision (a)(2) because A and B own 100 percent of both LP and LLC and their respective proportional interests remain the same after the transfer. Neither Revenue and Taxation Code section 64, subdivision (c) nor section 64 subdivision (d) of the Revenue and Taxation Code applies to this transfer, although A and B become "original coowners" with respect to their interests in LLC.

Example 11: A limited partnership (LP), which owns Blackacre and in which C and D hold equal partnership interests, changes its form to a limited liability company (LLC), in which C and D hold equal membership interests, by statutory merger under the California Revised Limited Partnership Act (Corporations Code section 15611 et seq.) and the Beverly-Killea Limited Liability Company Act (California Corporations Code section 17000 et seq.). No change in ownership of Blackacre upon the change in form because under section 17554 of the California Corporations Code, there is not a transfer of property from LP to LLC. Revenue and Taxation Code Section 62, subdivision (a)(2) of the Revenue and Taxation Code does not apply. However, if C and D were "original coowners" in LP, they remain "original coowners" in LLC.

(e) PARTNERSHIPS.

(1) Transfers of Real Property By Partnerships.

General Rule. Except as provided by subdivision (b)(2) of this rule where the proportional ownership interests remain the same, 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 partners with or without reference to the partnership. Except as provided by subdivision (b)(2) of this rule where the proportional ownership

interests remain the same, 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.

(2) Except as provided in subdivision (d)(1)(B) and (d)(2) of this rule, the addition or deletion of partners in a continuing partnership does not constitute a change in ownership of partnership property.

RULE 462.220. CHANGE IN OWNERSHIP—INTERSPOUSAL AND REGISTERED DOMESTIC PARTNER TRANSFERS.

Authority: Section 15606, Government Code.

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

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

(a) Transfers of ownership interests in legal entities,

(b) Transfers of ownership interests in legal entities resulting in one spouse or registered domestic partner obtaining control as defined in Revenue and Taxation Code Section 64, subdivision (c) 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 ~~co-owners~~ co-owners" which would otherwise be cumulated or counted for purposes of Revenue and Taxation Code Section 64, subdivision (d) of the Revenue and Taxation Code,

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

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

(e) Transfers which take effect upon the death of a spouse or registered domestic partner,

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

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

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

(h) The distribution of property of a corporation, partnership, or other legal entity to a spouse or registered domestic partner or former spouse or registered domestic partner having an ownership interest in the legal entity, in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement, or decree of dissolution of a marriage or registered domestic partnership, or legal separation.

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

Authority: Section 15606, Government Code.

Reference: Sections 60, 61, 62, 62.1, 62.2, 62.5, 64, 66, 67, Revenue and Taxation Code. Sections 37, 6401 and 6402, Probate 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 Revenue and Taxation Code Section 66, subdivision (b) of the Revenue and Taxation Code and this rule 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 Revenue and Taxation Code 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 parents or legal guardians to a minor child or children or among minor siblings, 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.

(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 Revenue and Taxation Code Section 62, subdivision (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 Revenue and Taxation Code 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 Revenue and Taxation Code Section 62.2 ~~of the Revenue and Taxation Code.~~

(k) Any transfer of a floating home marina pursuant to Revenue and Taxation Code section 62.5. ~~Any transfer of separate property inherited by a surviving domestic partner, as defined in subdivision (b) of section 37 of the Probate Code, by intestate succession upon the death of a registered domestic partner.~~

(l) Any transfer of real property between registered domestic partners, pursuant to Revenue and Taxation Code section 62, subdivision (p).

Tuesday, September 10, 2013

CHIEF COUNSEL MATTERS**RULEMAKING****Property Tax Rule 474, *Petroleum Refining Properties***

Richard Moon, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the request for authorization to repeal and initiate rulemaking to readopt Rule 474 in response to a recently published opinion from the California Supreme Court (Exhibit 9.4).

Speaker: Gina Rodriquez, Vice President of State Tax Policy, California Taxpayers' Association

Robert E. Cooney, Appraiser Specialist, Los Angeles County, provided a written comment (Exhibit 9.5).

Action: Upon motion of Ms. Yee, seconded by Mr. Horton and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board authorized staff to repeal and initiate rulemaking to readopt Rule 474, as recommended by staff.

Property Tax Rules 263, *Roll Corrections*, 462.020, *Change in Ownership – Tenancies in Common*, 462.060, *Change in Ownership – Life Estates and Estates for Years*, 462.160, *Change in Ownership – Trusts*, 462.180, *Change in Ownership – Legal Entities*, 462.220, *Change in Ownership – Interspousal Transfers*, and 462.240, *The Following Transfers Do Not Constitute a Change in Ownership*

Bradley Heller, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding staff's request for authorization to make Rule 100 changes to make the rules listed above consistent with recent legislation, and make minor grammatical and formatting edits (Exhibit 9.6).

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board authorized staff to make Rule 100 changes as recommended by staff.

ADMINISTRATIVE SESSION**ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Runner and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION
505 VAN NESS AVENUE, AUDITORIUM
SAN FRANCISCO, CALIFORNIA

REPORTER'S TRANSCRIPT

SEPTEMBER 10, 2013

CHIEF COUNSEL MATTERS

ITEM J SECTION 100 CHANGES

J2 PROPERTY TAX RULES 263, ROLL CORRECTIONS,
462.020, 462.060, 462.160, 462.180, 462.220 and
462.240

REPORTED BY: Kathleen Skidgel

CSR NO. 9039

P R E S E N T

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For the Board
of Equalization:

Jerome E. Horton
Chairman

Michelle Steel
Vice-Chairwoman

Betty T. Yee
Member

George Runner
Member

Marcy Jo Mandel
Appearing for John
Chiang, State Controller
(per Government Code
Section 7.9)

Joann Richmond
Chief, Board Proceedings
Division

For Board of
Equalization Staff:

Bradley Heller
Tax Counsel IV
Legal Department

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1 505 VAN NESS AVENUE, AUDITORIUM
2 SAN FRANCISCO, CALIFORNIA
3 SEPTEMBER 10, 2013

4 ---oOo---

5 MR. HORTON: Ms. Richmond.

6 MS. RICHMOND: Next are Section 100 Changes
7 J2. We have Property Tax Rules 263, Roll
8 Corrections, 462.020, Change in Ownership -
9 Tenancies in Common; 462.060 Change in Ownership -
10 Life Estates and Estates for Years; 462.160, Change
11 in Ownership - Trusts; 462.180, Change in
12 Ownership - Legal Entities; 462.220, Change in
13 Ownership - Interspousal Transfers; and 462.240, The
14 Following Transfers Do Not Constitute a Change in
15 Ownership.

16 MR. HORTON: Mr. Heller, would you please
17 introduce the issues in this case -- cases.

18 MR. HELLER: Sure. I'm Bradley Heller from
19 the Board's Legal Department, and I'm here to
20 request that the Board authorize staff to complete
21 Rule 100 changes to the previously mentioned
22 Property Tax Rules to make them consistent with
23 recent legislation and make some minor grammatical
24 and formatting edits.

25 MS. YEE: So moved.

26 MR. HORTON: Member Yee moves adoption,
27 second by Member Steel.

28 Without objection, Members, such will be

1 the order.

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REPORTER'S CERTIFICATE

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State of California)
) ss
County of Sacramento)

I, KATHLEEN SKIDGEL, Hearing Reporter for the California State Board of Equalization certify that on September 10, 2013 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 4 constitute a complete and accurate transcription of the shorthand writing.

Dated: September 20, 2013

Kathleen Skidgel



KATHLEEN SKIDGEL, CSR #9039
Hearing Reporter