

# **PROPOSITION 13**

By

Harry Gordon Oliver II  
Attorney at Law  
101 Montgomery Street, 27<sup>th</sup> Floor  
San Francisco, CA 94104  
Telephone: (415)896-5774  
Facsimile: (415)896-2049  
E-mail: [hgoiitax@pacbell.net](mailto:hgoiitax@pacbell.net)  
Website: [www.HGOIITAX.com](http://www.HGOIITAX.com)

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I. **Proposition 13**

- A. Prior to the adoption of Proposition 13 in 1978 California's real property tax regime was the same as in many other states. The assessor valued the property at its appropriate fair market value and assessed all property at 25% of that value. There was then a calculation of the ratio of revenue required to total assessed value and a property tax rate was determined. Bone, *California Property Tax*, ¶1201 (CCH 2003)
- B. In June 1978 California voters approved Proposition 13 which brought into play Article XIII A that (1) lowered the property tax rate to 1% plus certain additional amounts, (2) placed explicit limits on the power of government to impose additional property taxes, and (3) significantly changed the method of property assessment. *Id.*
1. In 1992 the U.S. Supreme Court held that Proposition 13 was constitutional. *Nordlinger v. Hahn*, 505 U.S. 1 (1992).
  2. There have been 18 Propositions changing Proposition 13 for the benefit of taxpayers. They are: #8 (November 1978) *Disasters and Declines in Value*; #7 (November 1980) *Solar Energy Systems*; #3 (June 1982) *Eminent Domain and Inverse Condemnation*; #23 (June 1984) *Seismic Safety Reconstruction*; #31 (November 1984) *Fire Safety Systems*; #34 (November 1984) *Historic Structures Rehabilitation*; #41 (June 1986) *Excess Tax Rates From Bonded Debt*; #50 (June 1986) *Replacement Property After Disaster*; #58 (November 1986) *Transfer of Property within Families*; #60 (November 1986) *Replacement Residences of Senior Citizens, Moves Within Counties*; #90 (November 1988) *Replacement Residences of Senior Citizens, Moves Between Counties*; #110 (June 1990) *Replacement Residences of Disabled Persons*; #127 (November 1990) *Seismic Retrofitting of Existing Buildings*; #60 (November 1992) *Spouses of Persons Who Died on Active Duty in Military*; #171 (November 1993) *Replacement Property After Disaster*; #177 (June 1994) *New Construction Exclusion for Disabled Accessibility Improvements*; #203 (March 1996) *Excluding Certain Grandparent/Grandchild Transfers*; #1 (November 1998) *Contaminated Property*.
- C. Locally assessed tangible personal property and all state assessed property are still assessed at current market value as in pre-Proposition 13 rules and procedures. Bone, ¶1201.02
- D. Under Proposition 13 property assessments were rolled back to the 1975/1976 level for the 1978/1979 fiscal year. Bone, ¶1202. Now:
1. Real property that has not been sold or undergone new construction since 1975, has a *1975 base year value*. *Id.*
  2. The *base year value* is the current market value (or full cash value) of real property in 1975/1976 or in any subsequent year in which there was a change of ownership or new construction. *Id.* See R&TC §§50 through 51.5 and 110.1.

- E. Base year value is adjusted each year for inflation, but cannot exceed 2%. *Id.* This is referred to as the adjusted base year value. *Id.*, and R&TC §51.
- F. If there is a change of ownership, assessors reappraise and assess real property to its current market value at the date of the change of ownership. *Id.*, §60-61.
  - 1. New construction property is appraised at its current market value at the date of completion. *Id.* Unfinished new construction is based on its market value each January 1<sup>st</sup> during construction. *Id.*, §70-71.
- G. The current fair market value or full cash value of property that has declined in value below the adjusted base year value is the assessable or full value. *Id.*
  - 1. When a property's fair market value exceeds the adjusted base year value, the full value is limited to the adjusted base year value. *Id.*, §51(a).
- H. The tax rate under Proposition 13 is 1% of assessed value. §51(a)(1)(B).

**II. Change In Ownership.** §60; Reg. 462.001

- A. The Revenue and Taxation Code provides as follows: A "change in ownership" means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." §60.
- B. Regulations at §462.001 provide as follows:
 

*A change in ownership* in real property occurs when there is a transfer of a present interest in the property, and a transfer of the right to beneficial use thereof, the value of which is substantially equal to the value of the fee interest. Every transfer of property qualified as a *change in ownership* shall be so regarded whether the transfer is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement (except as provided in 462.220(c) for interspousal transfers), or any other means. A change in the name of an owner of property *not* involving a change in the right to beneficial use is excluded from the term *transfer* as used in this section.
- C. Section 61 through 69.5 set forth various transactions which will not be treated as a change in ownership. The regulations on the exceptions to the change of ownership are found in property tax rules 462.001. 18 California Code Regs. §462.001 through §462.500.
- D. Section 61 sets forth certain transactions that are determined by the statute to be a change in ownership.
- E. The *Step Transaction Doctrine* applies in determining whether there is a change of ownership. See *Shuwa Investments Corporation v. County of Los Angeles*, 1 Cal. App. 4<sup>th</sup> 1635 (1991).

- F. The State Board of Equalization believes that the *Sham Transaction Doctrine* applies in property tax matters. See 3 State Board of Equalization, *Property Tax Law Guide*, 5410.1

**III. Proportional Interest Rule. §62; Reg. 462.020.**

- A. Change in Ownership shall *not* include "Any transfer between co-owners that results in a change in the method of holding title to the real property transferred without changing the proportional interests of the co-owners in that real property, such as a partition of a tenancy in common." §62(a)(1)
- B. The regulations state that a transfer from a co-tenancy to a joint tenancy or a transfer from a co-tenancy to a legal entity which results only in a change in the method of holding title *and* the proportional ownership interests in the property remain the same. Reg. 462.020(b)(1)(B) & (C).
  - 1. Transferees in such case are considered to be *original co-owners* of the property for purposes of determining whether a change of ownership has occurred upon the subsequent transfers of ownership interests in the property. Reg. 462.020(b)(1)(C)
  - 2. For example, the regulations provide that a transfer of real property by A & B as tenants in common, each owning a 50% interest, to a newly formed corporation in which A & B each receive 50% of the stock is *not* a change of ownership. Reg. 462.020(b)(1)(C), Example 1.
- C. Legal Entities. Any transfer between an individual or individuals and a legal entity, or between legal entities, that results only in the change of the method of holding title to the real property as long as the proportional ownership interests of the transferors and transferees in each and every piece of real property transferred remain the same after the transfer is not a change in ownership. §62(a)(2)
  - 1. This provision shall not apply to transfers also excluded under §64(b). *Id.*
    - a. Section 64(b) pertains to corporate reorganizations.
- D. Thus, the proportional interest rule under §62(a) pertains to transfers by individual co-owners, and to transfers to and from partnerships, corporations, etc.

**IV. Perfect Title. §62.**

- A. Not surprisingly, the transfer to perfect title to property; the creation, assignment, termination, or reconveyance of a security interest; or a substitution of a trustee under a security instrument, do not amount to a change of ownership. §62(b) & (c).

**V. Transfer of Legal Entities. §64; Reg. 462.180.**

- A. Section 64 provides that, with certain exceptions, the purchase or transfer of ownership interests in a corporation, partnership, or limited liability company (legal entities) shall *not* be deemed to constitute a transfer of the real property owned by the legal entity. §64(a)

- B. This is the rule whether or not the transfer of an interest in the partnership dissolves the partnership, or not. §64(a).
- C. An exception is a transfer of stock of a cooperative housing corporation which owns real property, if the transfer of the stock gives the transferee the exclusive right to occupancy and possession of the real property owned by the cooperative. §§ 64(a) and 61(i).
- D. **Acquisition of Control.** §64(c). A significant exception which results in a change of ownership is when any person, corporate or otherwise, obtains control, through direct or indirect ownership or control, of more than 50% of the voting stock of a corporation, a majority ownership interest in a partnership or limited liability company, or other legal entity, through the purchase or transfer of corporate stock, a partnership interest, or a limited liability company interest, or ownership interest in other legal entities. §64(c)(1).. The purchase or transfer shall be a change of ownership of the real property owned by the corporation, partnership, or limited liability company, in which the controlling interest is obtained.
1. In other words, when any entity or any person obtains through any transfer direct or indirect ownership or control of more than 50% of an entity, there is a change of ownership. Reg. §462.180(d).
    - a. Thus, it is ownership or control that is the test.
    - b. Thus, if someone takes over control of an entity, but does not own the entity, by the terms of the statute and the regulations, there is a change of ownership.
- E. Importantly, on or after January 1, 1996, when an owner of a majority ownership interest in any partnership obtains all the other remaining ownership interests in the partnership or otherwise becomes the sole partner, the purchase or transfer of the minority interests, subject to the step-transaction doctrine, is not a change of ownership of the real property owned by the partnership. §64(c)(2)
1. This rule was added in 1996 to cure the result in *Zapora v. County of Orange*, 26 Cal.App. 4<sup>th</sup> 464 (1994). In *Zapora*, the partner owned 68% of the partnership and acquired the remaining 32% interest. He finally dissolved the partnership and distributed the real property to himself. The court held that there was a 100% change of ownership of the property when the partner acquired the minority interest in the partnership because the partnership was automatically dissolved at that time under state law. If the entity were a corporation, rather than a partnership, the entity would not be dissolved when a shareholder acquired 100% of the corporate stock.
  2. *Planning suggests the parents receive a 49% interest in a partnership and the child (or children) 51% interest when the partnership is formed; thus, on the transfer to the child (or children), there will not be an acquisition of control.*
- F. Example: A & B each own 50% of Blackacre. They transfer Blackacre to AB Partnership and each receive a 50% interest in the partnership. B obtains 5% from A and owns 55% of the partnership. Now, B owns and controls more than 50% of the partnership. There is *no* change of ownership on the transfer of Blackacre to

AB Partnership (§62(a)(2)) but there is a 100% change of ownership of the partnership interest in Blackacre when B acquires the additional 5% interest in AB Partnership. §64(c)

G. There is a great deal of uncertainty in the acquisition of control rules of §64(c). See Steele & Moll, 1630 T.M. *Property Taxes: California's Property Tax Regime* 1608.08G.

H. **Transfer of Cumulatively More than 50% Interest of Original Co-Owners.** §64(d). The second exception to the general rule that the purchase or transfer of an interest in a legal entity is not a change of ownership is found in R&TC §64(d).

1. If real property is transferred on or after March 1, 1975 to a legal entity in a transaction excluded from the change of ownership because of the proportional interest rules of §62(a)(2), the persons holding the ownership interest in the legal entity immediately after the transfer (which is not a change of ownership) shall be considered to be original co-owners.

a. Whenever interest representing cumulatively more than 50% of the total interests in the entity are transferred by any of the original co-owners, in one or more transactions, *a change of ownership of the real property owned but previously excluded by the legal entity shall occur.* §64(d)

2. The date of the reappraisal shall be the date of the transfer of the ownership representing cumulatively more than 50% of the interest in the entity. *Id.*

3. *Planning. If parents are considering owning real property through a partnership with their children, it is preferable from a real property tax standpoint for the parents and the children to acquire interests in the partnership at the same time and then have the partnership acquire the real property. If the parents acquire the real property interest, transfer it to a partnership in which they own proportional interests, and then gift partnership interests to the children, there may be a change of ownership under the original co-owners rules of §64(d).*

I. Example. A and B each acquire a 50% interest in Grayacre. A and B transfer their interest to a partnership and receive their 50% a proportional interest in the partnership. If A and B each transfer 26% of the partnership interests, there is a more than 50% change in the original co-owners in the entity and there is a change of ownership. This is because A and B cumulatively transfer more than 50% of their original interests in the entity,

J. When the original co-owners transfer cumulatively more than 50% of their interest, there is a change of *only* the property owned by the entity that was previously excluded under the proportional interest rule. Reg. 462.180(d)(2).

1. Example: if Whiteacre is transferred under the proportional interest rule to a partnership and the partnership subsequently purchases Blackacre from an unrelated party, that is not subject to the proportional interest rule, only Whiteacre is reassessed when the original co-owners transfer more than 50% of their interests. The transfer of Blackacre is not a change of ownership unless there is a change of control.

2. However, if there is a change of ownership under §64(d) original co-owners who cumulatively transfer more than 50% of the total interests rule, and another party acquires control, under §64(c) all the property owned by the entity is subject to a change in ownership. §64(d). That is §64(c) control rule trumps §64(d) original co-owners rule.
- K. For purposes of the §64(d) original co-owners transfer of more than 50% rule, (1) interspousal transfers excluded under §63, (2) transfers into qualifying trusts excluded under §62(d), and (3) proportional interest transfers excluded under §62(a)(2) shall not be cumulated or counted to determine a change of ownership. Reg. 462.180(d)(2)
- L. There is no change of ownership on the transfer of real property among members of an affiliated group. §64(b); Reg. §462.180(b)(1).
1. An affiliated group means one or more chains of corporations connected through stock ownership with a common parent corporation if the following two tests are met. §64(b).
    - a. 100% of voting stock, exclusive of stock owned by directors, of each corporation is owned by one or more of the other corporations, and
    - b. The common parent corporation owns directly 100% of the voting stock, exclusive of stock owned by directors, of at least one of the other corporations. §64(b)(1) and (2).
  2. Example: Corporation A is owned 100% by Corporation P. Corporation B is owned 50% by Corporation P and 50% by Corporation A. Corporation C is owned 50% each by A and B. If Corporation B, wholly owned by Corporation A and Corporation P, acquires property owned by C (wholly owned by A and B), there is no change of ownership because P, the common parent, owns directly 100% of one of the other corporations *and* 100% of voting stock of each of the other corporations is owned by one or more of the other corporations. Reg. 462.180(b)(1) Example 1. In fact, the transfer of real property by P, A, B, or C to any of the three other entities will not be a change of ownership. See Exhibit A.
- M. Where all the corporations are members of an affiliated group, there is no change of ownership on a transfer of a corporation owning real estate if the transfer qualifies as an IRC §368 tax free reorganization (and similar California statutes). §64(b).
1. Not only must a transaction be tax free per IRC §368 tax free reorganization rules and applicable California rules, but the reorganization must involve affiliated corporations both before and after the reorganization.
    - a. In *Sav-On Drugs, Inc. v. County of Orange*, 190 Cal.App. 3d 1611 (1987) an acquisition qualifying as a tax free merger (IRC §368(a)(1)(A)) was a change of ownership because the acquiring corporation and the acquired corporate were not members of the same affiliated group before and after the reorganization.

- b. See also *Pueblos Del Rio v. City of San Diego*, 209 Cal. App. 3d 893 (1989). A divisive IRC §368(a)(1)(D) reorganization did not meet the affiliated group test after the spin-off and was, therefore, a change of ownership.
- c. The §64(c) acquisition of control of a corporation which results in a change of ownership rule overrides the tax free reorganization rule of §64(b). See *Title Insurance & Trust Co. v. County of Riverside*, 48 Cal. 3d 84 (1989).

N. The transfer of real property between non-affiliated corporations is a change of ownership but only for the property actually transferred. *Id.*

**VI. Trusts.** Sections 60; 61(h); 62(d); 63; 63.1; 64; Reg. 461.160:

- A. The general rule is that the transfer by a trustor of real property into a trust is a change of ownership at the time of the transfer. Reg. 462.160(a).
- B. A transfer by a trustor or trustor's spouse to a trust (1) if the transferor, or the transferor's spouse, is the present beneficiary of the trust, or (2) the trust is revocable is *not* a change of ownership. §61(h); 62(d)
- C. A transfer by a trustee described immediately above back to the trustor or in the 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 is not a change of ownership. §62((d).
- D. The vesting of real property in a person other than the trustor, or the trustor's spouse, and when a revocable trust becomes irrevocable is a change of ownership unless the transfer is to the trustor's spouse. §61(h)
- E. Transfers to a trust for the benefit of a spouse or the surviving spouse of the deceased transferor, or by a trustee of such a trust to spouse of trustor is not a change of ownership under the interspousal transfer exception rule. §63(a) and (b).
- F. The regulations explain the trust rules as follows:
  - 1. The transfer of real property to a trust in which the trustor is the sole present beneficiary of the trust is not a change of ownership. A change of 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 there is another exclusion. Reg. 462.160(b)(1)(A)
    - a. Example: "M" transfers income producing real property to a revocable trust in which "M" is the sole present beneficiary. Upon "M's " death the trust becomes irrevocable and "M's" brother "B" becomes the present beneficiary. Upon "M's" death there is a change of ownership. Reg. 462.160(b)(1)(A) Ex. 1.
- G. There is a change of ownership if a trustee of an irrevocable trust has a sprinkling power to distribute trust income or property, unless all the potential distributees have an available exclusion from the change of ownership. Reg. 462.160(b)(1)(A).

1. Example. "H" and "W" form a revocable trust. On the death of the deceased spouse, the deceased spouse's assets are distributed to an irrevocable trust. The surviving spouse's assets are distributed to a revocable trust. The terms of the irrevocable trust are that the trustee can sprinkle the income or principal to the surviving spouse, children, and grandchildren of the decedent. Because of the ability to distribute to the grandchildren, there is a change of ownership. The grandchildren are non-excludable beneficiaries. If the power is only to distribute to the children and surviving spouse, there would not be a change of ownership because the children and surviving spouse are excludable beneficiaries per the parent/child (§63.1) and inter-spousal (§63) exclusions. Reg. 462.160(b)(1)(A) Ex. 2.
- H. In a trust immediately above, if the transfers to the surviving spouse, children and grandchildren were in equal shares, there would only be a change of ownership for the transfer of the shares to the grandchildren. On the death of the surviving spouse there would be a change of ownership to the extent of the interests distributed to the grandchildren. Reg. 462.160(b)(1)(A) Ex. 3.
  - a. A sprinkling power causing an immediate change of ownership doesn't make sense because the real property may actually only be distributed to beneficiaries who have exclusions from change of ownership, i.e., children. §63.1.
- I. Interestingly, the regulations provide that the transfer of real property to a trust (or the transfer of a legal entity that holds real property) in which the transferor retains a reversion and the beneficial interest of any person other than the transferor does not exceed twelve years is not a change in ownership. Reg. 462.160(b)(1)(B).
  1. Thus, real property can be transferred to a trust and anybody can be a beneficiary of a trust as long as such beneficial interest in the trust does not exceed twelve years.
- J. The transfer of an interest in an entity holding real property to an irrevocable trust is not a change of ownership if the trustor-transferor is the sole present beneficiary or the trustor-transferor has a reversionary interest that vests within twelve years. Reg. 462.160(b)(1)(c).
- K. The transfer of real property or an ownership interest in an entity that holds real property to a revocable trust is not a change of ownership until the revocable trust becomes irrevocable and the present beneficiary is not the transferor or otherwise a person excludable from a change in ownership. Reg. 462.160(b)(2).
- L. Transfer to a trust in which the present beneficiary is the transferor's spouse or child(ren) is not a change of ownership until the spouse or child(ren) is not the sole present beneficiary unless otherwise excluded from a change in ownership. Reg. 462.160(b)(3) and (4).
- M. The termination of a trust or portion of a trust is a change of ownership unless the real property is distributed to the present beneficiary or some other exception to change in ownership applies. Reg. 462.160(c) and (d).

**VII. Parent – Child Exclusion. Proposition 58; §63.1.**

- A. Proposition 58 amended Article XIII A of the California Constitution, effective November 6, 1986 to provide that a purchase and change of ownership do not include the purchase or transfer of a principal residence, and the first \$1,000,000 of other real property, between qualified parents and children.
1. Form PT-58 must be filed to be entitled to the benefits. §63.1(a).
  2. The purchase or transfer of the first \$1,000,000 of the full cash value is not a change in ownership. §63.1(a)(2).
    - a. Full cash value is as defined in §2 of Article XIII A of the California Constitution and §110.1 of the Revenue & Taxation Code, with adjustments and the full value of any new construction in progress, determined as of the date immediately prior to the date of purchase by or transfer to an eligible transferee.
      - (1) §110.1 defines full cash value for Proposition 13 purposes as the base year value which is the FMV on the date of a change of ownership or when new construction is completed, or the lien date, if the new construction is not completed.
        - (a) The full cash value is adjusted by the §51 inflation factor. §110.1(f).
- B. Principal residence is defined as a dwelling for which a homeowner's exemption or a disabled veteran's residence exemption *has been* granted in the name of the eligible transferor. §63.1(b)(1). It appears that more than one principal residence may be transferred over time, subject to the homeowner's exemption requirement.
1. The principal residence includes only the portion of land of a reasonable size that is used as a site for the residence. *Id.*
- C. The \$1,000,000 exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees of real property other than the principal residence of the eligible transferor. §63.1(b)(2).
1. The exclusion only applies to transfers of real property other than the principal residence that occur on or after November 6, 1996.
  2. The exclusion shall *not* apply to any property in which the eligible transferor's interest was received through a transfer excluded from change in ownership as a transfer of joint tenancy unless the transferor qualifies as an original transferor. §63.1(b)(2).
    - a. In other words, if a parent transfers property to a child, and the transferor acquired the property in a transfer that was excluded as a change of ownership because the transferor was an original transferor in a transfer that created a joint tenancy, the \$1,000,000 exclusion is available. §63.1(b)(2). That should be because the parent's original acquisition of that property was a change of ownership. If the parent was not an *original transferor*, the parent's

acquisition was not a change of ownership and the parent can not, therefore, pass the real property on to his or her children and be exempt from the change of ownership rules.

- D. Purchase or transfer between parents and their children means any transfer of real property from parents to children or from children to parents. §63.1(c)(1).
1. The date of any transfer between parents and their children under a Will or intestate succession shall be the date of the decedent's death. §63.1(c)(1).
- E. Per §63.1(c)(3) "Children" means any of the following:
1. A child born of the parent or parents other than a child who has been adopted by others. §63.1(c)(3)(A).
  2. A step-child of the parent or parents and a spouse of that step-child while the step-parent / step-child relationship exists. (63.1(c)(3)(B).
    - a. A step-parent and step-child relationship exists until the marriage on which the relationship is based is terminated by divorce or if the relationship is terminated by death, until the remarriage of the surviving step parent. *Id.*
      - (1) So, if a child's parent dies and the step-parent remarries, the relationship of step-child and step-parent is then terminated.
  3. A son-in-law or daughter-in-law of the parent or parents. §63.1(c)(3)(C).
    - a. The relationship of parent and son-in-law or daughter-in-law exists until the marriage on which the relationship is based is terminated by divorce, or if it is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law. *Id.*
      - (1) Thus, if daughter dies a son-in-law is still the son-in-law until he remarries.
  4. Any child adopted by a parent or parents pursuant to any state statute other than an individual adopted after reaching the age of 18. §63.1(c)(3)(D).
- F. The term eligible transferor means a grandparent, parent, or child of an eligible transferee. §63.1(c)(6).
- G. The term eligible transferee means a parent, child, or grandchild of an eligible transferor. §63.1(c)(7).
- H. The term real property means real property as defined in §104, *but does not include any interest in a legal entity.* §63.1(c)(8).
- I. The term transfer means but is not limited a transfer of a present beneficial ownership of property from an eligible transferor to an eligible transferee, including a transfer through an inter-vivos or testamentary trust. §63.1(c)(9).

- J. For a parent-child exclusion to be availed of, the eligible transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate, must file a claim with the County Assessor and provide certain information. §63.1(d)(1).
1. The State Board of Equalization has designed a form to claim eligibility. §63.1(e)(1).
    - (1) See Exhibit B for Form PT-58. *Claim for Reassessment Exclusion for Transfer Between Parent and Child.*
  2. The claim form must be filed for transfers of real property between parents and their children on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to the transfer of real property to a third party, whichever is earlier. §63.1(e)(1)(B).
    - a. However, a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment received as a result of the purchase or transfer of real property for which the claim is filed. §63.1(e)(1)(C).
    - b. Additionally, in the case of real property subject to purchase or transfer, that has not been transferred to a third party, a claim for exclusion may be filed subsequent to the expiration of the filing period set forth above shall be considered by the assessor in certain situations. §63.1(e)(2).
      - (1) Thus, the benefit for the parent-child exclusion may be claimed years after the transfer is made, in certain situations, even though the parent-child exclusion form is not timely filed. The availability of the exclusion will not relate back to the time the parent-child transfer actually took place. §63.1(e)(2)(A).
- K. The parent-child exclusion shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996 if all of the parents of that grandchild are deceased as of the date of purchase or transfer. §63.1(a)(3)(A).
1. The grandparent exclusion shall not apply if the grandchild also received a principal residence from his/her parents and that transfer was excluded as a parent child exclusion. §63.1(a)(3)(B).
- L. The parent-child exclusion does not apply to entities that own real estate or the transfer of real property from a parent to a corporation owned by the children.
1. The transfer of real property by a parent to a limited partnership wholly owned by the parents and their children was a change of ownership. *Penner v. Santa Barbara County*, 37 Cal.App. 4<sup>th</sup> 1672.

- a. There may be some doubt whether *Penner* was correctly decided in view of the legislative intent that §63.1 be liberally construed in order to carry out the intent of Proposition 58. See Ehrman & Flavin, *Taxing California Property* §2.23.

**VIII. Tenancy in Common.** §61(f); §62(a); Reg. 462.020.

- A. §61(f) provides the general rule that the creation, transfer, or termination, of any tenancy in common interest is a change of ownership.
  1. The exceptions are a transfer excluded under the proportional interest rule and the inter-spousal transfer. *Id.*
    - a. Although not set forth in §61(f), the parent-child exclusion of §63.1 should apply to a tenancy in common. See *Infra.*
  2. Section 62(a) provides that a partition of a tenancy in common is not a change of ownership because it is a mere change in the method of holding title to the property.
  3. Tenancy in common is defined as an interest owned by several persons not as joint tenants or in partnership (and not as community property between husband and wife). Civil Code §§685 and 686.
- B. Transfers that result in the method of holding title being changed but do not change the proportional interest of the co-owners, such as the transfer from co-tenancy to joint tenancy or a transfer from a co-tenancy to a legal entity which results solely in the change of method of holding title with the same proportionate interests is not a change of ownership. Reg. 462.020(b)(1)(B) and (C).
- C. The purchase or change in ownership of an interest with a market value of less than 5% of the value of total property should not be reappraised where the market value of the interest transferred is less than \$10,000. §65.1(a); Reg. 462.020(b)(2).
  1. All transfers during any one assessment year shall be added together for purposes of determining the percentage interest and value transferred. §65.1(a).
    - a. The accumulated interest transferred shall not include any transfer of an interest that was otherwise excluded from a change of ownership. Reg. 462.020(b)(2).
- D. A transfer of tenancy in common to which a spousal exclusion will apply or to which a parent-child or grandparent-grandchild exclusion applies and for which a timely claim is filed, shall not be a change of ownership. Reg. 462.020(b)(3) and (4).

**IX. Joint Tenancy** §§61(e); 62(a)(1); 62(f); 63; 63.1; 65; Reg. 462.040.

- A. Joint Tenancy is an interest in property owned by two or more persons in equal shares and acquired by a single will or transfer which expressly provides that the property is held as joint tenants. "or by transfer from a sole owner to himself or herself and others, or from tenants in common or joint tenants to themselves or some of them, or to themselves or any of them and others, or from a husband and

wife, when holding title as community property or otherwise to themselves or to themselves and others or to one of them and to another or others, when expressly declared in the transfer to be a joint tenancy, or when granted or devised to executors or trustees as joint tenants." Civil Code §683(a).

1. Thus, when a joint tenancy exists there is
  - a. equal ownership for each joint tenant
  - b. The interests are acquired at the same time,
  - c. The joint tenants each have a right of survivorship,
  - d. The transferring instrument must specify that title is taken as joint tenants.
    - (1) The transferring instrument may be a joint tenancy deed or it may merely state that two or more parties are acquiring the property as joint tenants.
    - (2) A joint tenancy may be severed in any real estate as to the joint tenant's interest without consent of the other joint tenants by a written instrument setting forth the intent to sever the joint tenancy. Civil Code §683.2. Joint tenancy property cannot be disposed of by Will, etc.

B. The general rule is that the creation, transfer, or termination of a joint tenancy interest is a change of ownership. §61(e).

1. An exception to the general rule is that the creation or transfer of a joint tenancy interest in which *the* transferor, after the creation or transfer, is *one* of the joint tenants. §62(f).
2. Interspousal transfers involving joint tenancy are not a change of ownership. §63.
3. Section 65 restates the general rule that the creation, transfer, or termination of a joint tenancy is a change of ownership but also states the exceptions. §65(a).
  - a. For a change of ownership of a joint tenancy interest only the portion which is transferred from one owner to another is reappraised. §65(a).
  - b. There is no change of ownership upon the creation of a transfer of a joint tenancy interest if *the transferor or transferors*, after such creation or transfer, are among the joint tenants. §65(b).
    - (1) On the creation of a joint tenancy interest, the transferor or transferors shall be the "*original transferor or transferors*" for purposes of determining the property to be reappraised on subsequent transfers. The spouses of original transferors

shall also be considered original transferors. *Id.*, Reg. 462.040(b)(1).

(2) The term "original transferor" or "original transferors" is explained in the following example. A and B own property as tenants in common and transfer the property to themselves as joint tenants. A and B are *not* original transferors. To become an original transferor, the transfer must be from A and B to A and B and at least one other person. Reg. 462.040(b)(1), Example 4. *NOT SO ANY LONGER*

c. Upon the termination of an interest in any joint tenancy, the creation of which was not a change of ownership, the entire portion of the property held by the original transferor, or transferors prior to the creation of the joint tenancy, shall be reappraised unless it vests, in whole or in part, in any remaining original transferor(s). §65(c).

(1) Upon the termination of the interest of the last surviving transferor, there shall be a reappraisal of the interest then transferred and all other interests in the property held by all original transferors which were previously excluded from reappraisal per §65. *Id.*

C. Upon the termination of an interest held by other than the original transferor in a joint tenancy interest, described above, there shall be no reappraisal if the entire interest is transferred to either an original transferor or to all remaining joint tenants, if one of the remaining joint tenants is an original transferor. §65(d)

D. Joint tenancies created on or before March 1, 1995 shall be rebuttably presumed that each joint tenant holding an interest in the property as of March 1, 1975 is an original transferor. §65(e); Reg. 462.040(c).

E. When an interest in a portion of real property is transferred there is a change of ownership of *only* the portion transferred. §65.1(a).

1. The regulations for the joint tenancy rules are rather instructive. A purchase of property by A and B as joint tenants is a change of ownership of the entire property. Reg. 462.040(a), Example 1.

a. The transfer from A and B as joint tenants to C and D as joint tenants is a change of ownership of the entire property. Reg. 462.040(a), Example 2.

b. The transfer from C and D, as joint tenants, to C as sole owner, is a change of ownership of 50% of the property. Reg. 462.040(a), Example 3.

F. The first exception to a change of ownership in joint tenancies is that a transfer that creates or transfers any joint tenancy interest and after such creation or transfer *all* transferors are among the joint tenants is not a change of ownership. Reg. 462.040(b)(1).

1. A and B as joint tenants transfer real property to A, B, C, and D as joint tenants. There is no change of ownership because the original transferors, A and B, are transferees. C and D are not original transferors. Reg 462.040(b)(1), Example 5.
  2. If A as a sole owner transferred property to A, B, C, and D as joint tenants, there is no change of ownership because A is an original transferor. B, C, and D would be "other than original transferors". *Id.*
  3. A and B as joint tenants transfer to A, B, C, D, and E as joint tenants. E is B's wife. There is no change of ownership because A and B, the transferors are included among the transferees and are original transferors. E is also an original transferor. C and D are other than original transferors. Reg. 462.040(b)(1), Example 6.
  4. A, B, and C are joint tenants and A is an original transferor. A dies. Then B and C transfer to B, C, and D as joint tenants. D is A's husband. D does not become an original transferor because D did not acquire the interest from A, i.e. did not acquire the interest during the time A held a joint tenancy interest. Reg. 462.040(b)(1), Example 7-1.
  5. A and B, as joint tenants, transfer to B and C as joint tenants. C is A's spouse. C is an original transferor because she was the spouse of an original transferor and acquired her interest from her spouse, an original transferor. Reg. 462.040(b)(1), Example 7-2.
  6. A and B are joint tenants and A is an original transferor. C is A's spouse. A and B as joint tenants transfer to A, B, and C. C is an original transferor. Reg. 462.040(b)(1), Example 7-3.
    - a. So, the regulations demonstrate that the spouse of an original transferor may receive some of the property from other than his/her spouse and still be an original transferor.
  7. A and B, as joint tenants, transfer to B, C, and D as joint tenants. There is a 66 2/3% change in ownership of the interest transferred because A is not one of the transferees. There is a 2/3 change of ownership because B retained one-third and two-thirds of the property was transferred. There is a change of ownership because exception (b)(1) only applies if *all* transferors are among the joint tenants. Reg. 462.040(b)(1), Example 8.
  8. A and B transfer to A, B, and C as joint tenants and thereafter C transfers his or her interest to A and B. If the step transaction doctrine applies to disregard the transfer, A and B do not become original transferors as the result of the transfer to A, B, and C. Reg. 462.040(b)(1), Example 9.
- G. The second exception in the regulations under the joint tenancy rules is that if a transfer terminates an original transferor's interest in a joint tenancy and the interest vests in whole or in part in the remaining original transferor(s), there is no change of ownership. There is a change of ownership, however, upon the termination of the interest of the last surviving original transferor and 100% of the property is reappraised. Reg. 462.040(b)(2).

1. A and B transfer to A, B, C, and D as joint tenants. A dies or transfers his interest to the remaining joint tenants, B, C, and D. There is no change of ownership because B, an original transferor, remains a joint tenant. Reg. 462.040(b)(2), Example 10.
  2. A and B transfer to A, B, C, and D as joint tenants. A and B are original transferors. A and B die or transfer their interests to C and D. There is a change of ownership because A and B's interests had previously been excluded from reappraisal and there are no more original transferors. Reg. 462.040(b)(2), Ex. 4.
  3. The above exceptions apply to transferors who are original transferors and not to a transfer by an other than original transferor.
- H. The third exception to joint tenancy change of ownership rules is that there is no change of ownership of the transfer terminates a joint tenancy interest *held by other than an original transferor* in a joint tenancy when the interest is transferred either to an original transferor, or to all remaining joint tenants, if one remaining joint tenant is an original transferor. Reg. 462.040(b)(3).
1. A and B transfer to A, B, C, and D as joint tenants. C, not an original transferor, grants his interest to B and D. There is no change of ownership because C grants to remaining joint tenants and B is an original transferor. Reg. 462.040(b)(3), Example 12.
- I. Other exceptions are:
1. The transfer to a joint tenancy or from a joint tenancy that results in merely a change in the method of holding title and does not result in a change of the proportional interest, is not a change of ownership. Reg. 462.040(b)(4).
  2. A transfer terminating a joint tenancy and creating separate ownership in equal shares and a transfer terminating a joint tenancy and creating a tenancy in common in equal shares, are examples of a mere change in the method of holding title that does not change the proportional interest of the co-owners. Reg. 462.040(b)(4)(A) and (B).
  3. A transfer terminating a joint tenancy including a transfer to a legal entity in which the interest of the transferors and transferees remain the same after the transfer, is not a change of ownership. The transferees are "original co-owners" for purposes of determining whether a change of ownership occurs pursuant to §64(d). Reg. 462.040(b)(4)(C).
  4. The creation, transfer, or termination of a joint tenancy interest that qualifies for the interspousal exclusion rules of §63 is not a change of ownership. Reg. 462.040(b)(5).
  5. The creation, transfer, or termination of a joint tenancy interest is not a change of ownership if the parent/child or grandparent/grandchild exclusion applies and a timely claim has been filed. Reg. 462.040(b)(7).

**X. Interspousal Exclusion, Proposition 58; §63; Reg. 462.220**

- A. Notwithstanding any other provisions in this chapter, *a change of ownership shall not include any interspousal transfer*, including, but not limited to, (the following) . . . ." (Emphasis added.)
1. Transfers to a trustee for the beneficial use of the spouse or the surviving spouse of a deceased transferor or, or a transfer by a trustee of such a trust to the spouse of the trustor. §63(a).
  2. Transfers which take effect upon the death of a spouse. §63(b).
  3. Transfers to a spouse, or former spouse, in connection with a property settlement agreement or decree of dissolution of a marriage or a legal separation. §63(c).
  4. The creation, transfer, or termination solely between spouses of a co-owners interest. §63(d).
  5. The distribution of a legal entities 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 or dissolution of marriage or legal separation. §63(e).
- B. The interspousal exclusion would seem to apply to any interspousal transfer one can imagine and create.
- C. The regulations instruct that the transfer of ownership of an interest in a legal entity qualifies for the inter-spousal exclusion. Reg. 462.220(a).
1. Note that there is no exclusion for the transfer of an entity from a parent to a child, or vice-versa.
  2. A transfer of an ownership interest in a legal entity resulting in one spouse obtaining control under §64(c) (change of ownership or control) qualifies for the interspousal exclusion. Reg. 462.220(b).
  3. Example: H(usband) owns a 30% interest in a partnership and W(ife) owns a 30% interest in the same partnership. If W transfers her interest to H, resulting in H owning a 60% ownership interest, there is no change of ownership because of an interspousal transfer exclusion. If the ownership was by H and C(hild) and there was a transfer from H to C of his 30% interest, there would be a change of ownership. Reg. 462.220(b), Example 1.
  4. Transfers of ownership interests in legal entities by original co-owners resulting in cumulatively more than a 50% of the total interest in the entity being transferred (cumulative transfer of more than 50% interest – §64(d)) is effectively excluded from being a change of ownership. Reg. 462.220(c).
  5. It appears that a transfer by an original co-owner to his/her spouse is not counted as a transfer per the interspousal transfer exclusion rules and the

transferee spouse retains the status of original co-owner because any transfer from one spouse to another is excluded.

- D. In San Francisco, the position is that the interspousal transfer exemption applies to transfers between same sex partners who are registered domestic partners under state or local law. San Francisco Assessor-Recorder Ruling 2002-01.

**XI. Date of Change of Ownership; Reg. 462.020.**

- A. The date of recordation of a deed or other recorded document shall be rebuttably presumed to be the date of the change of ownership. §462.260(a)(1).
1. The date may be rebutted by proving the date that all parties' instructions in escrow were satisfied or the date of agreement of the parties becomes specifically enforceable. *Id.*
  2. When the transfer is accomplished by an unrecorded deed, the date of the transfer document shall be rebuttably presumed to be the date of the change of ownership. *Id.* Reg. 462.260(a)(2).
    - a. This presumption may also be rebutted by evidence showing the date all parties' instructions have been met in escrow or the date the agreement becomes specifically enforceable. *Id.*
    - b. For an inheritance the date of the change of ownership is the date of death of the decedent. Reg. 462.260(c).
  3. Revocable Trust. The date of a change of ownership is the date the trust becomes irrevocable. Reg. 462.260(d)(1).
  4. The date of a change of ownership for irrevocable trusts is the date the property is transferred to the trust. Reg. 462.260(d)(2)(a).
  5. The date of a change of ownership is the effective date of the immediate right to present possession or enjoyment of a remainder or reversion upon the permanent termination of a life estate or similar preceding property right. Reg. 462.260(d)(2)(B).
    - a. Example: H grants a life estate to W with a remainder to unrelated party X. The creation of a life estate is a transfer that qualifies for the interspousal exclusion. A change of ownership takes place on the date of death of W because on W's death X has an immediate right to the present possession and enjoyment of the remainder interest. Reg. 462.260(d)(2)(B), Example 4.

**XII. Presumption Regarding Ownership Reg. 462.200.**

- A. There is a rebuttable presumption that all persons listed on a deed have an ownership interest. Reg. 462.200.
1. The presumption can be rebutted by any of the following:

- a. A written document executed prior to or at the time of the conveyance in which all parties agree that one or more of the parties do not have equitable ownership interests.
- b. A judicial finding, order, or judgment.
- c. Declarations under penalty of perjury accompanied by such written evidence as may be available. *Id.*

**XIII. Reporting Requirements. §480, etc.**

- A. When there is a transfer of title to real property, the transferee is required to sign and file a *Preliminary Change of Ownership Report* ("PCOR") (Exhibit C) in the county where the real property is located. §480, *et seq.*
  - 1. The PCOR should be sent to the Recorder's Office along with the deed or other recorded document.
    - a. Many Recorders will not record deeds that are not accompanied by a PCOR and will assess fines if a PCOR is not provided with a deed to be recorded.
  - 2. If the PCOR is not filed at the time the deed is recorded, the PCOR should be filed with the Assessor within 45 days of the date of the change of ownership. *Id.*
- B. If the change of ownership occurs because of the death of an owner, the PCOR should be filed within 150 days after the date of death or filed at the time the inventory and appraisal is filed as part of an estate administration.
- C. If there is a change of ownership of an entity, the PCOR is to be filed with the State Board of Equalization within 45 days of the date of the written request by the State Board of Equalization. §§480.1 and 480.2
  - 1. California Corporate, Partnership, and LLC tax returns ask if there has been a change in control or ownership of the entity.

**XIV. Transfer of Base Year Value.**

- A. Any person over the age of 55, or any severely or permanently disabled person who lives in *property that is eligible for the homeowner's exemption* may transfer the base year value of the property to any replacement dwelling of equal or lesser value that is located in the same county or to newly constructed property by that person to be his principal residence, but only after the original property is sold. §69.5(a)(1).
- B. The base year value may be transferred to another county if the county board of supervisors adopts an ordinance allowing such transfers. §69.5(a)(2).

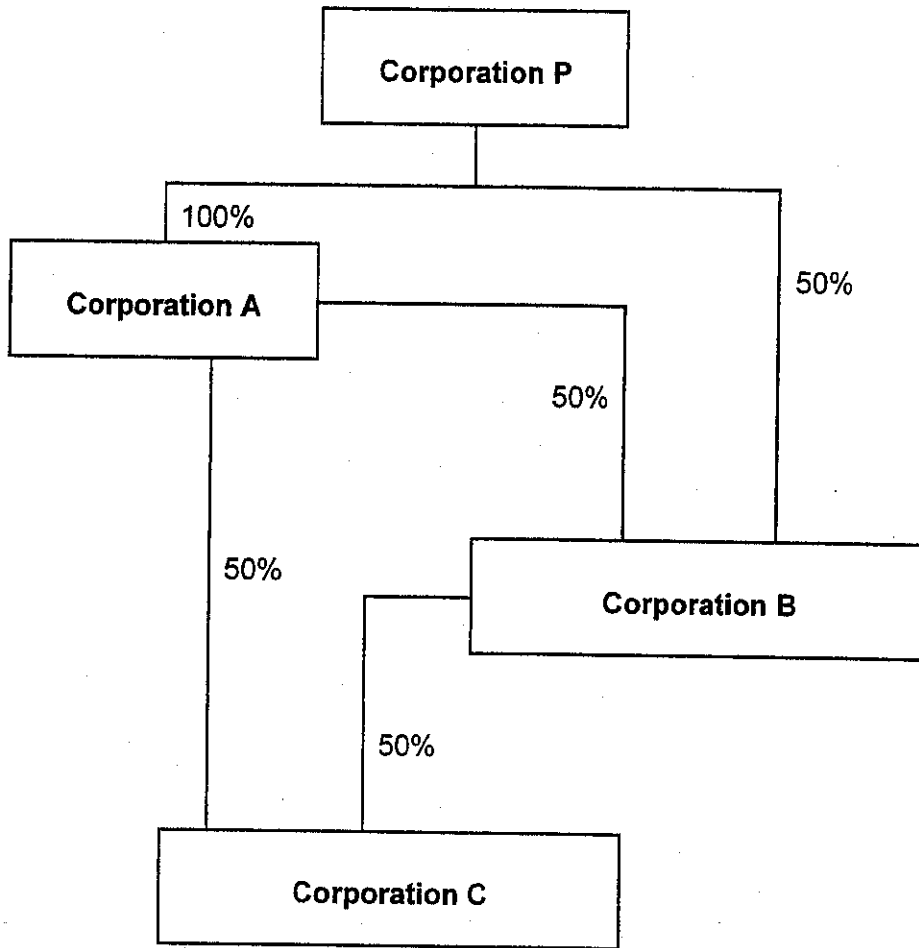
**XV. Materials.**

- A. Materials providing information for Proposition 13 include (1) California Constitution Article XIII A, (2) Chapter 2 of California Revenue and Taxation Code including §§60 through 69.5, (3) Title 18, Public Revenue, California Code of Regulations, (4)

Letters to Assessors and other Correspondence, (5) Treatises such as Ehrman & Flavin, *Taxing California Property* (3<sup>rd</sup> Edition); Steele and Moll, 1630 T.M., *Property Taxes; California's Property Tax Regime; California Property Tax*, Bone (CCH-2003); and various articles such as *A Practitioner's Guide to the Change in Ownership Rules*, *California Trusts & Estates Quarterly*, page 12 (Winter 2002).

1. Rules and Regulations issued by the California State Board of Equalization are binding on local assessors. See California Government Code §1506(c) and (h); *Prudential Ins. Company of America v. City and County of San Francisco*, 191 Cal. App. 3d 1142 (1987) (Assessor's failure to follow state board rules grounds for awarding attorney fees). See also State Board of Equalization, *Property Taxes Law Guide*, at 5402.
2. The official voter information pamphlet for Proposition 13 and subsequent related propositions provide authority. See *Amador Valley Joint Union High School District v. State Board of Equalization*, 22 Cal. 3d 208 (1978).
3. The legislation was drafted for the change of ownership rules after temporary statutes were enacted, based on the help of a task force. See *Report of Task Force on Property Tax Administration to Assembly Revenue and Taxation Committee*, January 22, 1979.

**EXHIBIT A**



Transfer of real property by P, A, B, or C to any of the other three would not be a Change of Ownership.

**CLAIM FOR REASSESSMENT EXCLUSION FOR  
TRANSFER BETWEEN PARENT AND CHILD**  
(Section 63.1 of the Revenue and Taxation Code)

**EXHIBIT B**

CALIFORNIA LAW PROVIDES, WITH CERTAIN LIMITATIONS, THAT A "CHANGE IN OWNERSHIP" DOES NOT INCLUDE THE PURCHASE OR TRANSFER OF:

1. The principal residence between parents and children, and/or
2. The first \$1,000,000.00 of other real property between parents and children.

IN ORDER TO QUALIFY FOR THIS EXCLUSION, A CLAIM FORM MUST BE COMPLETED AND SIGNED BY ALL ELIGIBLE TRANSFERORS AND TRANSFEREES AND FILED WITH THE COUNTY ASSESSOR WITHIN THREE YEARS AFTER THE DATE OF PURCHASE OR TRANSFER, OR PRIOR TO THE TRANSFER OF THE REAL PROPERTY TO A THIRD PARTY, WHICHEVER IS EARLIER, OR WITHIN SIX MONTHS AFTER THE DATE OF MAILING OF A NOTICE OF SUPPLEMENTAL OR ESCAPE ASSESSMENT FOR THIS PROPERTY. COMPLETE ALL OF SECTIONS A, B, AND C AND ANSWER EACH QUESTION OR YOUR CLAIM MAY BE DENIED. PROOF OF ELIGIBILITY MAY BE REQUIRED.

Please note:

- a. This exclusion only applies to transfers that occur on or after November 6, 1986.
- b. In order to qualify, the real property must be transferred from parents to their children or children to their parents.
- c. Failure to complete and return this form may result in this property being reassessed.

**A. PROPERTY**

1. Assessor's Parcel Number \_\_\_\_\_
2. Property Address \_\_\_\_\_ City \_\_\_\_\_
3. Recorder's Document No. \_\_\_\_\_ Date of Purchase or Transfer \_\_\_\_\_
4. Probate No. (If Applicable) \_\_\_\_\_ Date of Death (If Applicable) \_\_\_\_\_
5. Date of Decree of Distribution (If Applicable) \_\_\_\_\_

The disclosure of social security numbers is required by Revenue and Taxation Code, Section 63.1. The numbers are used by the assessor and the state to monitor the exclusion limit. This claim is not subject to public inspection.

**B. TRANSFEROR(S)/SELLER(S) (ADDITIONAL TRANSFERORS PLEASE COMPLETE "B" ON THE REVERSE)**

1. Print Full Name(s) of Transferor(s) \_\_\_\_\_
2. Social Security Number(s) \_\_\_\_\_
3. Family Relationship(s) to Transferee(s) \_\_\_\_\_  
If adopted, age at time of adoption \_\_\_\_\_
4. Was this property your principal residence?  Yes  No  
If yes, please check which one of the following exemptions was granted on this property in your name:  
Homeowners' Exemption \_\_\_\_\_ Disabled Veterans' Exemption \_\_\_\_\_
5. Are you transferring real property other than the principal residence of the transferor? (Limited to the first one million dollars of value)  Yes  No  
If yes, please attach a list of all previous transfers by you that qualify for this exclusion. [This list should include for each property: the County, Assessor's parcel number, address, date of transfer, names of all the transferees/buyers, and family relationship. Transferor's Principal Residence must be identified.]
6. Was only a partial interest in the property transferred?  Yes  No If yes, Percentage Transferred \_\_\_\_\_%
7. Do you own this property as a joint tenant?  Yes  No
8. If the transfer was through the medium of a trust, please attach a list of all the beneficiaries.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING AND ANY ACCOMPANYING STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I CERTIFY THAT I AM THE PARENT OR CHILD OF THE TRANSFEREES LISTED IN SECTION C.

\_\_\_\_\_  
(SIGNATURE OF TRANSFEROR OR LEGAL REPRESENTATIVE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE OF TRANSFEROR OR LEGAL REPRESENTATIVE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(MAILING ADDRESS)

\_\_\_\_\_  
(DAY TIME PHONE)

**PLEASE COMPLETE APPLICABLE INFORMATION ON REVERSE SIDE**

**CLAIM FOR REASSESSMENT EXCLUSION FOR TRANSFER BETWEEN PARENT AND CHILD**

**C. TRANSFEREE(S)/BUYER(S) (ADDITIONAL TRANSFEREES PLEASE COMPLETE "C" BELOW)**

1. Print Full Name(s) of Transferee(s) \_\_\_\_\_
2. Family Relationship(s) to Transferor(s) \_\_\_\_\_  
 If adopted, age at time of adoption \_\_\_\_\_  
 If step-parent/step-child relationship is involved, was parent still married to step-parent on the date of purchase or transfer?  Yes  No  
 If no, was the marriage terminated by: 1. Death?  or 2. Divorce?   
 If terminated by death, had the surviving step-parent remarried as of the date of purchase or transfer?  Yes  No  
 If in-law relationship is involved, was the son-in-law or daughter-in-law still married to the daughter or son on the date of purchase or transfer?  Yes  No  
 If no, was the marriage terminated by: 1. Death?  or 2. Divorce?   
 If terminated by death, had the surviving son-in-law or daughter-in-law remarried as of the date of purchase or transfer?  Yes  No
3. ALLOCATION OF EXCLUSION (if the full cash value of the real property transferred exceeds the one million dollar value exclusion, the transferee must specify on an attachment to this claim the amount and allocation of the exclusion that is being sought.)

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING AND ANY ACCOMPANYING STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I CERTIFY THAT I AM THE PARENT OR CHILD OF THE TRANSFERORS LISTED IN SECTION B.

\_\_\_\_\_  
(SIGNATURE OF TRANSFEREE OR LEGAL REPRESENTATIVE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(MAILING ADDRESS)

\_\_\_\_\_  
(DAY TIME PHONE)

The Assessor may contact you for additional information.

**B. TRANSFEROR(S)/SELLER(S) (continued)**

NAME	SOCIAL SECURITY NUMBER	RELATIONSHIP	SIGNATURE	DATE

**C. TRANSFEREE(S)/BUYER(S) (continued)**

NAME	RELATIONSHIP	SIGNATURE	DATE

[To be completed by transferee (buyer) prior to transfer of subject property in accordance with Section 480.3 of the Revenue and Taxation Code.] A Preliminary Change of Ownership Report must be filed with each conveyance in the County Recorder's Office for the county where the property is located; this particular form may be used in all 58 counties of California.

THIS REPORT IS NOT A PUBLIC DOCUMENT

SELLER/TRANSFEROR:

BUYER/TRANSFEEE:

ASSESSOR'S PARCEL NUMBER (S):

PROPERTY ADDRESS OR LOCATION:

MAIL TAX INFORMATION TO: NAME:

ADDRESS:

PHONE # (8:00 A.M. - 5:00 P.M.):

NOTICE: A lien for property taxes applies to your property on January 1 of each year for the taxes owing in the following fiscal year, July 1 through June 30. One-half of these taxes is due November 1, and one-half is due February 1. The first installment becomes delinquent on December 10, and the second installment becomes delinquent on April 10. One tax bill is mailed before November 1 to the owner of record. IF THIS TRANSFER OCCURS AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31, YOU MAY BE RESPONSIBLE FOR THE SECOND INSTALLMENT OF TAXES DUE FEBRUARY 1.

The property which you acquired may be subject to a supplemental assessment in an amount to be determined by the \_\_\_\_\_ County Assessor. For further information on your supplemental roll obligation, please call the \_\_\_\_\_ Assessor at \_\_\_\_\_

PART I: TRANSFER INFORMATION

Please answer all questions.

YES NO

- A. Is this transfer solely between husband and wife (Addition of a spouse, death of a spouse, divorce settlement, etc.)?
B. Is this transaction only a correction of the name(s) of the person(s) holding title to the property (For example, a name change upon marriage)?
C. Is this document recorded to create, terminate, or reconvey a lender's interest in the property?
D. Is this transaction recorded only as a requirement for financing purposes or to create, terminate, or reconvey a security interest (e.g. cosigner)?
E. Is this document recorded to substitute a trustee under a deed of trust, mortgage, or other similar document?
F. Did this transfer result in the creation of a joint tenancy in which the seller (transferor) remains as one of the joint tenants?
G. Does this transfer return property to the person who created the joint tenancy (original transferor)?
H. Is this transfer of property:
1. to a trust for the benefit of the grantor, or grantor's spouse?
2. to a trust revocable by the transferor?
3. to a trust from which the property reverts to the grantor within 12 years?
I. If this property is subject to a lease, is the remaining lease term 35 years or more including written options?
\*J. Is this transfer from parent(s) to child(ren) or from child(ren) to parent(s)? or from grandparent(s) to grandchild(ren)?
\*K. Is this transaction to replace a principal residence by a person 55 years of age or older?
Within the same County? Yes No
\*L. Is this transaction to replace a principal residence by a person who is severely disabled as defined by Revenue and Taxation Code Section 69.5? Within the same County? Yes No

\*If you checked yes to J, K, or L, you may qualify for a property tax reassessment exclusion, which may result in lower taxes on your property. Failure to file a claim results in the reassessment of the property.

Please provide any other information that would help the Assessor to understand the nature of the transfer.

IF YOU HAVE ANSWERED "YES" TO ANY OF THE ABOVE QUESTIONS EXCEPT J, K, OR L, PLEASE SIGN AND DATE, OTHERWISE COMPLETE BALANCE OF THE FORM

PART II: OTHER TRANSFER INFORMATION

A. Date of transfer if other than recording date \_\_\_\_\_

B. Type of transfer. Please check appropriate box.

- Purchase Foreclosure Gift Trade or Exchange Merger, Stock, or Partnership Acquisition
Contract of Sale - Date of Contract \_\_\_\_\_
Inheritance - Date of Death \_\_\_\_\_ Other: Please explain: \_\_\_\_\_
Creation of Lease Assignment of Lease Termination of a Lease Sale/Leaseback
Date Lease Began \_\_\_\_\_

Original term in years (including written options) \_\_\_\_\_

Remaining term in years (including written options) \_\_\_\_\_

C. Was only a partial interest in the property transferred? Yes No.

If yes, indicate the percentage transferred \_\_\_\_\_ %.

Please answer, to the best of your knowledge, all applicable questions, sign and date. If a question does not apply, indicate with "N/A".

**PART III: PURCHASE PRICE AND TERMS OF SALE**

- A. CASH DOWN PAYMENT OR Value of Trade or Exchange (excluding closing costs) Amount \$ \_\_\_\_\_
- B. FIRST DEED OF TRUST @ \_\_\_\_\_ % Interest for \_\_\_\_\_ years. Pymts./Mo=\$ \_\_\_\_\_ (Prin. & Int. only) Amount \$ \_\_\_\_\_  
 FHA (\_\_\_\_\_ Discount Points)  Fixed Rate  New Loan  
 Conventional  Variable Rate  Assumed Existing Loan Balance  
 VA (\_\_\_\_\_ Discount Points)  All inclusive D.T. (\$ \_\_\_\_\_ Wrapped)  Bank or Savings & Loan  
 Cal-Vet  Loan Carried by Seller  Finance Company  
 Balloon Payment  Yes  No Due Date \_\_\_\_\_ Amount \$ \_\_\_\_\_
- C. SECOND DEED OF TRUST @ \_\_\_\_\_ % Interest for \_\_\_\_\_ years. Pymts./Mo=\$ \_\_\_\_\_ (Prin. & Int. only) Amount \$ \_\_\_\_\_  
 Bank or Savings & Loan  Fixed Rate  Assumed Existing Loan Balance  
 New Loan  Variable Rate  Loan Carried by Seller  No Due Date \_\_\_\_\_ Amount \$ \_\_\_\_\_  
 Balloon Payment  Yes  No
- D. OTHER FINANCING: Is other financing involved not covered in (b) or (c) above?  Yes  No Amount \$ \_\_\_\_\_  
 Type \_\_\_\_\_ @ \_\_\_\_\_ % interest for \_\_\_\_\_ years. Pymts./Mo=\$ \_\_\_\_\_ (Prin. & Int. only)  
 Bank or Savings & Loan  Fixed Rate  New Loan  
 Loan Carried by Seller  Variable Rate  Assumed Existing Loan Balance  
 Balloon Payment  Yes  No Due Date \_\_\_\_\_ Amount \$ \_\_\_\_\_
- E. IMPROVEMENT BOND  Yes  No Outstanding Balance: Amount \$ \_\_\_\_\_
- F. TOTAL PURCHASE PRICE (or acquisition price, if traded or exchanged, include real estate commission if paid.)  
 Total Items A through E \$ \_\_\_\_\_
- G. PROPERTY PURCHASED  Through a Broker  Direct from Seller  From a family member  Other (explain) \_\_\_\_\_  
 If purchased through a broker, provide broker's name and phone number: \_\_\_\_\_

Please explain any special terms, seller concessions, or financing and any other information that would help the Assessor understand the purchase price and terms of sale \_\_\_\_\_

**PART IV: PROPERTY INFORMATION**

- A. TYPE OF PROPERTY TRANSFERRED:  
 Single-Family Residence  Agricultural  Timeshare  
 Multiple-family residence (no. of units: \_\_\_\_\_)  Co-op/Own-your-own  Manufactured Home  
 Commercial/Industrial  Condominium  Unimproved lot  
 Other (Description: \_\_\_\_\_)
- B. IS THIS PROPERTY INTENDED AS YOUR PRINCIPAL RESIDENCE?  Yes  No  
 If yes, enter date of occupancy \_\_\_\_\_ / \_\_\_\_\_ / 19\_\_\_\_ or intended occupancy \_\_\_\_\_ / \_\_\_\_\_ / 19\_\_\_\_
- C. IS PERSONAL PROPERTY INCLUDED IN PURCHASE PRICE (i.e. furniture, farm equipment, machinery, etc.)  
 (other than a manufactured home subject to local property tax)?  Yes  No  
 If yes, enter the value of the personal property included in the purchase price \$ \_\_\_\_\_ (Attach Itemized list of personal property.)
- D. IS A MANUFACTURED HOME INCLUDED IN PURCHASE PRICE?  Yes  No  
 If Yes, how much of the purchase price is allocated to the manufactured home? \$ \_\_\_\_\_  
 Is the manufactured home subject to local property tax?  Yes  No What is the Decal Number? \_\_\_\_\_
- E. DOES THE PROPERTY PRODUCE INCOME?  Yes  No If yes, is the income from:  
 Lease/Rent  Contract  Mineral Rights  Other-Explain: \_\_\_\_\_
- F. WHAT WAS THE CONDITION OF THE PROPERTY AT THE TIME OF SALE?  
 Good  Average  Fair  Poor  
 Please explain the physical condition of the property and provide any other information (such as restrictions, etc.) that would assist the Assessor in determining the value of the property. \_\_\_\_\_

I certify that the foregoing is true, correct and complete to the best of my knowledge and belief.

Signed \_\_\_\_\_ Date \_\_\_\_\_ Phone# (8:00a.m.-5:00p.m.) \_\_\_\_\_  
 New Owner/Corporate Officer  
 Please Print Name of New Owner/Corporate Officer \_\_\_\_\_

(Note: The Assessor may contact you for further information.)

If a document evidencing a change of ownership is presented to the recorder for recordation without the concurrent filing of a preliminary change of ownership report, the recorder may charge an additional recording fee of twenty dollars (\$20).