

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

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

Rule 462.220. CHANGE IN OWNERSHIP - INTERSPOUSAL TRANSFERS.

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

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

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

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

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

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

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

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

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

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462 (l).
Amended September 10, 1997, effective February 20, 1998.