

**Amend Revenue and Taxation Code Section 63.1 of the Property Tax Law to expressly allow the parent-child exclusion to transfers of interests in cooperative housing corporations. (Housekeeping)**

**Source: Property and Special Taxes Department**

**Existing Law**

*Parent-Child Change in Ownership Exclusion.* Proposition 58, which was passed by the voters of California on November 4, 1986, added subdivision (h) to Section 2 of Article XIII A of the California Constitution. Subdivision (h) provides, in part, that the terms "purchased" and "change in ownership" shall not include the purchase or transfer of the principal residence, or the first \$1 million of the full cash value of all other real property, between parents and their children, as defined by the Legislature. Assembly Bill 47 (Ch. 48, Stats. 1987) added Section 63.1 to the Revenue and Taxation Code to implement Proposition 58. Proposition 193, passed by the voters on March 26, 1996, extended this exclusion to transfers from grandparents to grandchildren under certain circumstances.

Section 63.1(c)(8) defines "real property" as land and improvements per Section 104 and specifically does not include any interest in a legal entity.

*Change in Ownership – Cooperative Housing Corporations.* Revenue and Taxation Code Section 60 provides a general definition of "change in ownership" which is a transfer of present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

In addressing the practical application of a change in ownership of a real estate project with common areas or facilities, Section 65.1(b) specifies if there is a change in ownership of a unit or lot, then only that particular unit or lot and a share in the common area is to be reappraised. These provisions apply to cooperative housing corporations. In addition, Section 61(i) expressly provides that a transfer of stock in a cooperative housing corporation is a change in ownership requiring reassessment of the property.

In a cooperative housing corporation, the corporation holds title to the project real estate, with shares in the corporation in turn owned by the project's occupants. Ownership of shares provides the right to lease and use one of the project's dwelling units. The owners also hold leasehold interests in specific units combined with proportional ownership of the shares in the cooperative housing corporation.

A cooperative housing corporation is treated as real property for change in ownership purposes (Section 61(i)) and is specifically allowed by Section 69.5(c)(1) - (the over 55/disabled base year value transfer). Moreover, a unit or lot within a cooperative housing corporation is eligible for the homeowners' exemption pursuant to Section 218. However, the transaction is a transfer of stock of a corporation and not a transfer of real property and Section 63.1(c)(8) precludes applying the parent-child exclusion to transfers of legal entity interests.

### **This Proposal**

This proposal would extend the parent-child exclusion to a unit or lot within a cooperative housing corporation. Section 61(i) expressly provides that a transfer of stock in a cooperative housing corporation is a change in ownership that requires reassessment of the property, unless an exclusion applies. There are relatively few cooperative housing corporations in California and the issue of the application of parent-child exclusion recently surfaced. It is inequitable to not provide the parent-child exclusion to these homes and this proposal would address that inequity.

*Section 63.1 of the Revenue and Taxation Code is amended to read:*

(c) As used in this section:

\*\*\*

(8) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity. For purposes this section, real property includes a unit or lot within a cooperative housing corporation, as defined in section 61(i).