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No. 80/180

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TO COUNTY ASSESSORS:

CHANGE IN OWNERSHIP LEGISLATION - TECHNICAL

This letter is the first in a series of letters we will be sending out in regard to Senate Bill 1260 and Assembly Bill 2777. These bills make some changes affecting "change in ownership" for purposes of reappraisal. Senate Bill 1260 was approved by the Governor on September 25, 1980 and was effective immediately. Assembly Bill 2777 was approved on September 30, 1980 and is effective January 1, 1981. Both of these bills amend Sections 62 and 480 of the California Revenue and Taxation Code. Since they have different effective dates, we will state the effective date for each specific section.

Change in Ownership

Section 61(d). This change is for clarification, and simply includes a reference to Section 65 as being one of the sections affecting reappraisal regarding creation, transfer, or termination of joint tenancy interests.

Section 62(a). This exclusion to change in ownership has been widely broadened. It has been broadened not only as to the scope of the type of transfer excluded, but also as to the concept utilized by previous legislation in excluding them. A change in the method of holding title to real property which does not change the proportional interests of the co-owners (i.e., partition of a tenancy in common) was and is excluded as a change in ownership causing reappraisal. Also excluded under the new statutes would be any transfer of title between an individual and a legal entity or between legal entities which changes only the method of holding title and not the proportional interests of the transferors and transferees. These "interests" may be represented by stock, partnership interest, co-ownership interest, or otherwise.

Prior to the passage of these statutes, the transfer from an individual to a corporation was a change in ownership requiring a reappraisal. It would not be under Section 62(a) as long as the transferor owned all of the stock of the transferee corporation. A transfer from a partnership to a corporation would also be excluded from causing reappraisal of the property transferred so long as the partners own the same percentage of the corporation as they do of the partnership (i.e., two partners holding

50 percent interest each in a partnership transfer real property owned by the partnership to a corporation in which the partners each hold 50 percent of the corporate stock).

However, if the proportional interests do not remain the same (i.e., two equal tenancy in common owners transfer real property to a partnership in which they are 75 percent and 25 percent interest holders), then the entire property transferred to the partnership would be subject to reappraisal and not just a portion.

As this demonstrates, the concept employed under Section 62(a) has been broadened to the point that transfers between legal entities are excluded so long as the interests of the persons owning the entities do not change.

Section 62(f). This section excludes from change in ownership 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. This exclusion is basically the same as it was with a reference to 65(b) that defines "original transferor" in terms of this exclusion.

Section 62(j). This section is new and provides for the reversal of any revaluation that resulted from a transfer between co-owners who held title to property between March 1, 1975 and March 1, 1980 so long as the property in question was eligible for a homeowners' exemption during the entire period of co-ownership. The exemption need not have been granted, but the property must have been eligible.

This exclusion will apply to transfers between co-owners occurring after March 1, 1980 so long as the property was held by the co-owners during March 1, 1975 to March 1, 1980 and was eligible for the homeowners' exemption. A reappraisal reversed pursuant to this Section (62(j)) would be effective for the 1980-81 roll--so long as it was applied for by February 28, 1981. Such reversal would require a refund for that roll.

Sections 64(a-e). These sections have undergone some significant changes, and our analysis is not complete at this time. We will be sending a separate letter to advise you about the provisions of these sections.

Section 65. The previous Section 65 was repealed and an amended version was added by Senate Bill 1260. Subdivision (a) basically restates Subdivision (d) of Section 61, and further states that when a change in ownership in a joint tenancy occurs, only the interest or portion transferred shall be reappraised.

Section 65(b). This subdivision states that the creation or transfer of a joint tenancy interest where the transferor(s) is (are) among the joint tenants after creation or transfer is not a change in ownership. The transferor(s) in such an excluded transfer shall be an "original transferor" for purposes of determining the property to be reappraised

on subsequent transfers (i.e., termination of an original transferor's interest, or termination of an interest of "other than" an original transferor). Also included is the provision that spouses of original transferors shall be considered original transferors also.

This section has not been changed in concept, but it has added definitions that help clarify intent.

Section 65(c). This section basically is the old Section 65(a)(1). It deals with the termination of an original transferor's interest. Upon termination of an original transferor's interest, the entire portion of the property held by the original transferor prior to the creation or transfer of the joint tenancy first excluded shall be reappraised unless the property is transferred either in whole or in part to a remaining original transferor, in which case, there shall be no reappraisal.

This section has been changed in that the phrase "by operation of law" has been removed. The removal of this phrase excludes from reappraisal the termination of an original transferor's interest for transfers not caused by death as long as the property is transferred either in whole or in part to a remaining original transferor.

This section further provides that upon termination of the last surviving original transferor's interest, the interest then transferred shall be reappraised, and the interest of any other original transferor that was previously excluded from reappraisal by Section 65 shall be reappraised at this time. This portion serves to clarify the intent of the Legislature, and is, in fact, the position advocated by the Board from the beginning.

Section 65(d). This section was formerly Section 65(a)(2), and it has not been changed conceptually. It has only been reworded to be consistent with the amendments to other related sections. When, in a joint tenancy described in 65(b), an interest other than an original transferor's interest terminates, there shall be no reappraisal if the interest is transferred either to an original transferor or else to all remaining joint tenants.

Section 65.1(a). This section is a reworking of what was originally Section 65(b). This section provides that upon transfer of an undivided interest (i.e., co-ownership interest) in real property, only the interest or portion transferred shall be reappraised. However, a transfer of an undivided interest with a market value of less than 5 percent of the value of the total property shall not be reappraised if the market value of the interest transferred is less than \$10,000. This is a change conceptually from last year when we looked only to the percent transferred. It is important to note that the transfer of an undivided interest of even 1 percent would be subject to reappraisal if the value of the property transferred equals or exceeds \$10,000. By the same token, a transfer of an undivided interest worth \$2,000 would require reappraisal if the total property value is less than \$40,000.

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The dollar limitation only applies to transfers of less than 5 percent. As was in the past, if the value of the interest transferred equals or exceeds 5 percent of the total property value, the interest transferred must be reappraised and assigned a new base year value.

Again this year, as last, transfers during a single assessment year must be cumulated to determine if the transfers exceed the allowable minimums. We are no longer concerned whether the transfers are to affiliated transferees. All transfers would be cumulated unless otherwise excluded (e.g., interspousal transfer).

Section 65.1(b). This section is prior Section 65(c). It has not been changed, just renumbered.

Another change in the legislation is the removal of the rebuttable presumption regarding joint tenants holding interests as of March 1, 1975. Removal of this provision makes it incumbent upon the assessor, for purposes of determining the original transferor(s), to research the history of any joint tenancy that was in effect on March 1, 1975 whenever an interest in that joint tenancy terminates.

Effective Dates

Senate Bill 1260 was passed as an urgency statute, and the changes made by it apply to the 1980-81 fiscal year property tax roll. The provisions of Assembly Bill 2777 are effective for the determination of base year values for the 1981-82 fiscal year. Both Senate Bill 1260 and Assembly Bill 2777 are "retrospective." That is to say that their provisions apply to any change in ownership occurring since March 1, 1975, but, for years prior to 1981-82, no refunds or escapes should be levied for increases or decreases resulting from the provisions of these bills. The exception to this would be Sections 62(j), 65, and 65.1 (see below) that provide for refunds for the 1980-81 roll only. Following is a section by section reference for effective dates:

<u>Section</u>	<u>Effective</u>	<u>Remarks</u>
61(d)	Immediately	
62(a)	January 1, 1981	
62(f)	Immediately	
62(j)	Immediately	Refunds for the 1980-81 roll
64(a-e)	January 1, 1981	
65(a-d)	Immediately	Refunds for the 1980-81 roll
65.1(a & b)	Immediately	Refunds for the 1980-81 roll

If you have questions regarding the above, please contact the Technical Assistance Section.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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