



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Acting Member
Fourth District, Los Angeles

E. L. SORENSEN, JR.
Executive Director

January 23, 1998

Re: Reappraisal of real property upon change in ownership.

Dear Mr. " " "

This is in response to your letter of December 26, 1997 addressed to Board member Dean Andal which was referred to the Board's legal division for reply. In the letter, you request a legal opinion on the reappraisal of a partial interest in real property which has undergone a change in ownership. You state that you and your brother co-owned real property and improvements in which you held a 75% interest and your brother held a 25% interest. You purchased your brother's interest in 1992 resulting in a change in ownership of the 25% interest. The San Luis Obispo County Assessor reappraised the entire parcel and allocated 25% of that value to establish a new base year value on the 25% interest transferred. It is your position that pursuant to Revenue and Taxation Code section 65.1, subdivision (a) the assessor should have reappraised only the 25% interest transferred and you request an opinion as to whether the assessor has properly reappraised the 25% interest transferred.

As set forth below, it is our opinion that the assessor correctly applied the law by reappraising the entire parcel and allocating 25% of the new reappraised value to determine the new base year value of the interest transferred. In determining the value of real property for property taxation purposes, the basis of valuation is the entire appraisal unit. A reappraisal of a portion of that appraisal unit would not necessarily reflect the full value of the property which is the standard required by law.

LAW AND ANALYSIS

Revenue and Taxation Code section 401 provides that "Every assessor shall assess all property subject to general property taxation at its full value." Section 51, subdivision (d) provides that in determining the taxable value of real property "real property" means that appraisal unit which persons in the marketplace commonly buy and sell as a unit, or that is normally valued separately." The basis for appraising an entire unit is premised on the concept of value in exchange wherein the taxable value is determined by the price that property would bring

in the open market under conditions described in Property Tax Rule 2, subdivision (a). That subdivision provides, in pertinent part, that

In addition to the meaning ascribed to them in the Revenue and Taxation Code, the words "full value" . . . mean the price at which a property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

Thus, the taxable value of a fractional interest as determined by a reappraisal must reflect the proportion of the value that the entire appraisal unit would bring in an open market transaction.

As you may be aware, if offered for sale on the open market, the 25% interest transferred would be worth less than its proportionate share of the whole property. The sale price of that fractional interest would be discounted because of reduced marketability due to the fact that a prospective purchaser would not pay the full value as if the interest were a separate and independent parcel because such a purchaser would be purchasing a minority interest in a tenancy in common. In view of the fact that the assessor is required to appraise property at its full value, it would be inconsistent with that requirement for the assessor to discount the value of a fractional interest below its pro rata share of the total value because it is a minority interest or lacks marketability.

You indicate in your letter that the entire 41.71 acre parcel and improvements is a single appraisal unit which has been owned by your family since 1979. Therefore, in order to make an accurate assessment of the full value of the property in accordance with the property tax laws outlined above, the assessor correctly reappraised the entire unit and allocated to the 25% interest transferred.

Sincerely,

Timothy W. Boyer

Timothy W. Boyer
Chief Counsel

TWB:ba

- cc: Honorable Dean Andral
- Mr. E. L. Sorensen, Jr.
- Mr. John Waraas
- Mr. Larry Augusta
- Mr. Dick Johnson

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STATE TAX ADMIN.
Sales Tax and Coordination

1/26/98 - Rudy Bischof