

County-Assessed Properties Division Legal Entity Ownership Program

California State Board of Equalization
August 27, 2019 Board Meeting
Sacramento, CA

History of Legal Entity Ownership Program

- The Legal Entity Ownership Program (LEOP) is administered by the Board of Equalization's Property Tax Department's County-Assessed Properties Division
- Under Proposition 13, real property is reassessed for property tax purposes when it is sold or transferred or has completed new construction

History of LEOP (cont.)

- LEOP started operations in 1983 as a result of Assembly Bill 152
- Assists county assessors in discovering a reassessable event of legal entities that hold an interest in California real property

Legal Authorities

Revenue and Taxation Code (R&T) section 64 provides that a transfer of an interest in a legal entity is not a corresponding change in ownership in the real property owned by that legal entity except under two provisions. The provisions are R&T sections 64(c) and 64(d).

Legal Authorities (cont.)

R&T section 64(c) provides a change in control occurs when a person or entity obtains more than 50 percent of the ownership interest in the entity, resulting in a reassessment of all real property owned by the entity, unless an exclusion applies.

Legal Authorities (cont.)

R&T section 64(d) provides a change in ownership occurs when a cumulative transfer of more than 50 percent of “original co-owners” interests, established after a transfer of real property to a legal entity qualified for an exclusion from reassessment under R&T section 62(a)(2).

Legal Authorities (cont.)

R&T sections 480.1 and 480.2 require legal entities to file a *Statement of Change in Control and Ownership of Legal Entities* (BOE-100-B) with the BOE if a change in control (CIC) under R&T section 64(c) or a change in ownership (CIO) under R&T section 64(d) occurs.

R&T Section 480.1

R&T section 480.1 requires that whenever there is a CIC of a corporation, partnership, limited liability company, or other legal entity as defined in section 64(c), a change in ownership statement (BOE-100-B) shall be filed with the BOE by the person or legal entity acquiring ownership control within 90 days from the date of the change in control.

R&T Section 480.2

R&T section 480.2 requires that whenever there is a CIO of a corporation, partnership, limited liability company, or other legal entity, as defined in R&T section 64(d), a change of ownership statement (BOE-100-B) shall be filed with the BOE within 90 days from the date of the change in ownership.

Discovering Changes in Control and Changes in Ownership

SOURCES OF INFORMATION:

- Self-reported by Entity on a BOE-100-B
- BOE requests Entity to file form BOE-100-B from Franchise Tax Board tax return information
- County Assessor referral (form BOE-100-BR)
- Staff research of merger and acquisition publications

Self-Reporting by Legal Entity

Law requires filing of form BOE-100-B within 90 days when a CIC under R&T section 64(c) or CIO under R&T section 64(d) occurs.

BOE Requested Filings

- BOE sends requests to file a BOE-100-B if the BOE becomes aware that an entity has been involved in a CIC or CIO
- R&T section 64(e) requires the Franchise Tax Board to assist the BOE in discovering whether an entity has experienced a CIC or CIO

Questions on FTB Tax Returns

The California Franchise Tax Board tax returns ask questions regarding changes in control and changes in ownership

- Form 100, Question “C” - Corporations
- Form 565, Question “J” - Partnerships
- Form 568, Question “J” - Limited Liability Companies

Question C1 on FTB Form 100 Tax Return

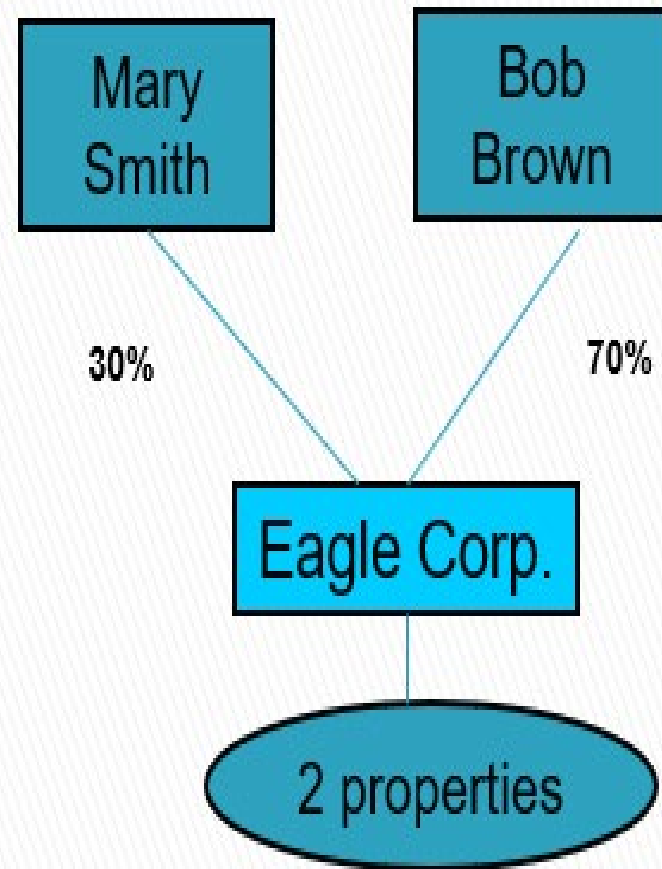
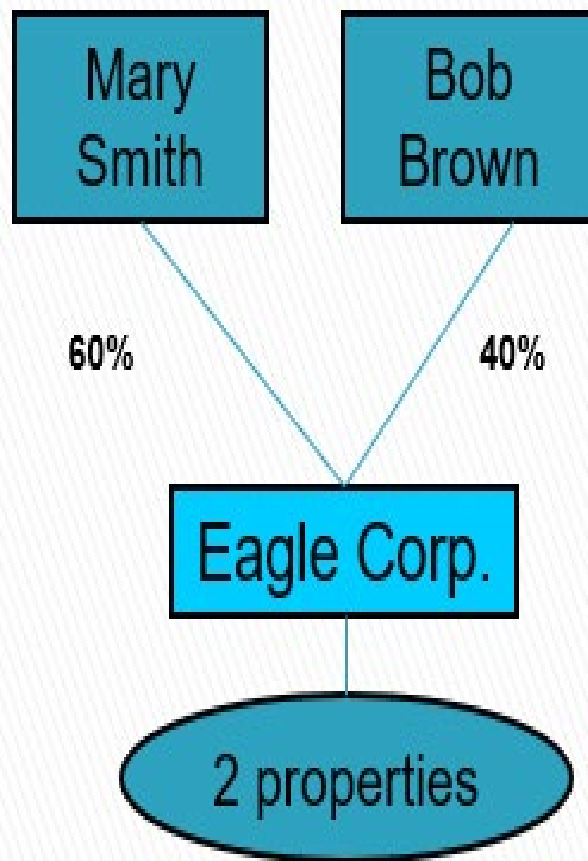
During this taxable year, did another person or legal entity acquire control or majority ownership (more than a 50% interest) of this corporation or any of its subsidiaries that owned California real property (i.e., land, buildings), leased such property for a term of 35 years or more, or leased such property from a government agency for any term?

Example of a CIC - R&T Section 64(c)

Mary Smith owns 60% of the voting stock of Eagle Corporation, which owns 2 properties in Santa Clara County. (Bob Brown owns the remaining 40% of the voting stock.) Mary sells half (30%) of her interests to Bob. Bob's interests in the corporation increase from 40% to 70%, resulting in a change in control under R&T section 64(c). A diagram follows.

Diagram of a CIC - R&T Section 64(c)

BEFORE and AFTER



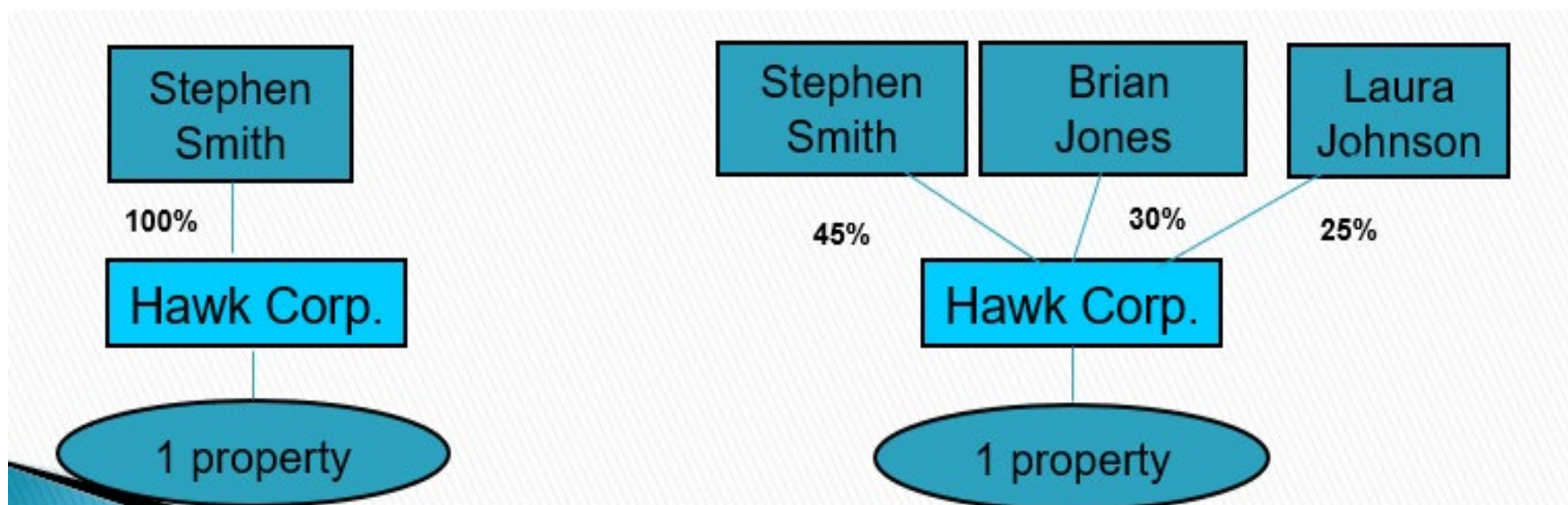
Example of a CIO - R&T Section 64(d)

Steven owns 100% of the voting stock of Hawk Corporation. Property originally owned by Steven Smith and transferred to Hawk Corp. on 11/15/1999. The county granted an exclusion from reassessment under R&T section 62(a)(2) when Steven transferred property from himself to his corporation. Therefore, Steven became an “original co-owner” in 1999. On 3/15/2019, Steven sells 30% to Brian and 25% to Laura. A diagram follows.

Diagram of a CIO - R&T Section 64(d)

CIO under R&T section 64(d) occurred – transfer of more than 50% by an original co-owner

BEFORE and AFTER



(No CIC under R&T section 64(c) occurred – since neither Brian or Laura hold more than 50%)

Exclusions for LEOP Transfers

- Proportional ownership interest-R&T section 62(a)(2)
- Interspousal-R&T section 63
- Registered Domestic Partner- R&T section 62(p)
- Affiliated Group, nontaxable reorganization-R&T section 64(b)

BOE Responsibility to Counties

Generate and distribute monthly reports known as *Legal Entity Ownership Program Notice of Findings* to county assessors, identifying:

- Legal entities that have undergone a CIC or CIO as defined by R&T sections 64 (c) or (d), respectively, and if an exclusion applies
- Mergers that are property transfers under R&T section 61(j)
- If a legal entity is subject to penalty

Notice of Findings Includes

- Cover letter identifying the dates of reports for filings processed
- Explanations and instructions for the county staff
- Notice of Findings reports: (a) *CLC or CIO By Company and By County*, (b) *CLC or CIO – Exclusion Applies - By Company and By County*, (c) *Amended/Corrected Filings*, (d) *Non-Response filers*, (e) *Mergers* (f) and a PDF copy of each BOE-100-B filing is included

Assessor Role and Responsibility

- Review monthly LEOP reports from the BOE
- Identify real property in the county that is subject to reassessment
- Reassess property
- Determine if penalties are applicable
- Notify entities of reassessment and any penalties
- Enroll reassessments and penalties

LEOP is Moving Forward

BOE system modernization was implemented on 12/1/2018

- Streamlines processing of BOE-100-B forms
- Promotes a paperless environment
- Creates a modernized web-based database to accurately track BOE-100-B filings

LEOP'S – Past 4 Fiscal Years

Year	Filings Received	Filings Processed	Legal Entities	Parcels Reappraisal
2015-2016	4,316	4,064	1,360	7,713
2016-2017	4,320	3,584	917	8,595
2017-2018	4,253	5,172	1,556	14,651
2018-2019	<u>1,833</u>	<u>2,228</u>	<u>1,000</u>	<u>3,562</u>
Totals:	14,722	15,048	4,833	34,521

LEOP STAFF – 9 Positions

4 Vacancies

Principal Property Appraiser:	<i>VACANT</i>
Supervising Property Appraiser:	<i>VACANT</i>
Senior Specialist Prop. Appraiser:	<i>FILLED</i>
Senior Specialist Prop. Appraiser:	<i>FILLED</i>
Staff Services Analyst (General):	<i>VACANT</i>
Tax Technician III:	<i>FILLED</i>
Tax Technician III:	<i>FILLED</i>
Tax Technician II:	<i>FILLED</i>
Assistant Property Appraiser:	<i>VACANT</i>

LEOP Challenges at the BOE

- Recruitment
 - Uncompetitive salary
 - Barriers to entry
- Training
 - Hiring entry level appraisers with little to no experience
- Retention
 - Aging workforce
 - Staff leave for better opportunities

LEOP Program Risks

- Property that has undergone a CIC or CIO is not reassessed
- Loss of tax revenue
- Impact on the assessor's workload
- Impact on the taxpayer