

# **Change in Ownership**

## ***Background***

Prior to June 1978, real property was annually assessed to current market value on a cyclical basis. However, on June 8, 1978, the voters of California approved Proposition 13 which changed the assessment of real property from a cyclical market-based system to an acquisition-based value system.

Under Proposition 13, property values were rolled back to their market value on March 1, 1975. From that point forward, real property is reassessed to current market value upon a change in ownership. What is a change in ownership?

Revenue and Taxation Code section 60 defines a change in ownership as "a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." Here are some of the examples provided in Section 61 that describe change in ownership:

- Creation, renewal, extension, or assignment of a taxable possessory interest
- Creation of a leasehold interest in taxable real property for a term of 35 years or more
- Creation, transfer or termination of any tenancy-in-common interest
- Termination of a life estate
- Vesting of interests when a trust becomes irrevocable
- Creation, transfer, or termination of any joint tenancy interest
- Transfer of any interest in real property between a legal entity and a shareholder, partner, or any other person

Sections 62 through 69.5 provide exceptions from change in ownership.

## ***Current and Emerging Issues***

### **Joint Tenancy**

Section 65 provides an exception to the provision that the creation, transfer, or termination of any joint tenancy interest is a change in ownership. Subdivision (b) provides that there will be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors, after such creation or transfer, are among the joint tenants. Thereafter, the transferor is known as the "original transferor" for purposes of determining the property to be reappraised on subsequent transfers. Property Tax Rule 462.040 interprets sections 61, 62, and 65 related to joint tenancies.

In 2003, Rule 462.040 was amended to allow joint tenants to transfer real property to trusts and obtain or retain the advantages of joint tenancy, under certain circumstances. These changes opened up a myriad of problems for assessors. To address these problems, the California Assessors' Association petitioned the Board of Equalization earlier this year to further change

Rule 462.040. However, industry opposed some of the proposed changes. The CAA requested that the petition be delayed so they could work out a solution with industry representatives.

### **Training of Non-Appraisal Personnel**

Government Code section 15606 outlines the powers and duties of the Board of Equalization. One of our duties is to prepare and issue instructions to assessors designed to promote uniformity through the state in the assessment of property for property tax purposes. Revenue and Taxation Code sections 670 and 671 require the Board of Equalization to train and certify appraisers and auditor appraisers for property tax purposes. These training and certification requirements were implemented in 1967, over a decade before Proposition 13 was enacted.

Now, since property is reappraised to market value upon a change in ownership, decisions must first be made as to whether a change in ownership has occurred. In making this determination, deeds and other legal documents must be analyzed. Knowledge of change in ownership statutes is necessary in making the correct decision. Change in ownership is a highly complex area.

Initially following the passage of Proposition 13, the BOE conducted change in ownership workshops. Time passed, budget crises occurred, staff personnel was reduced. Training in this area became nonexistent for a long time. When the change in ownership workshops did not rematerialize, the California Assessors' Administrative Services Association stepped up and created their own series of change in ownership classes.

## ***Discussion Questions***

### **Joint Tenancy**

- Other than parent/child and registered domestic partners, what other types of family relationships have taken advantage of this exclusion?
- Do you routinely ask for copies of trusts?
- How difficult is it to get copies of trusts?

### **Training of Non-Appraisal Personnel**

- Is there a need for structured training?
- Is there a need for certification similar to requirements for appraisers?
- If certification is mandated, should each assessor be required to provide instructors or host classes in proportion to their need for certification?
  - What should the experience level be in order to become certified?
  - Who will create the certification exam?
  - Who will monitor the certification?
  - Should annual training be required to maintain the certification?