INFORMATION SHEET

PROPERTY TAX SAVINGS: TRANSFERS BETWEEN COTENANTS UPON THE DEATH OF A COTENANT

The State Board of Equalization Taxpayers' Rights Advocate Office is committed to helping California taxpayers understand property tax laws, and be aware of exclusions and exemptions available to them.

Transfers of Property Between Cotenants

Did you know there is an exclusion from reassessment when a cotenant inherits the other cotenant's share of their home upon their death?

Normally, when there is a change in ownership, which includes the death of a real property owner, the property owned by that person is reassessed to market value to the extent of that person's ownership interest in the property. The property is reassessed at market value as of the transfer date (date of death in this case), and its market value is applied to the percentage that changed ownership, which can increase its assessed value and the amount of property taxes owed, unless an exclusion applies.

Revenue and Taxation Code section 62.3 allows an exclusion from reassessment of a residence owned and occupied by two individuals (cotenants) as their principal place of residence upon the death of one cotenant if certain conditions are met. The principal residence means a dwelling *eligible* for either the Homeowners' Exemption or the Disabled Veterans' Exemption; it does not mean that one of the exemptions must have been granted.

The cotenancy exclusion is available only if all the following conditions are met:

- The sole two cotenants together owned 100 percent of the residence as joint tenants or tenants in common. (See Helpful Hints section for property held in a trust.)
- The two cotenants must be owners of record for the one-year period immediately preceding the death of one of the cotenants.
- The property must have been the principal residence of both cotenants for the one-year period immediately preceding the death of one of the cotenants.
- The surviving cotenant must obtain a 100 percent interest in the property.
- The surviving cotenant must sign an affidavit affirming continuous occupancy at the residence with the deceased cotenant for the one-year period preceding the cotenant's date of death.

The cotenancy exclusion applies to individuals other than spouses or registered domestic partners, such as non-registered domestic partners, siblings, an aunt and her niece, a grandparent and grandchild where the parents of the grandchild are still alive, or friends.

The cotenancy exclusion does not apply if any other provisions in the Revenue and Taxation Code provide for a change in ownership exclusion. Thus, if the parent-child, spousal, or registered domestic partner transfer exclusion can apply, the cotenancy exclusion will not apply.

Potential for Tax Savings

Property taxes are based on the assessed value of your property. For purposes of California property taxation, real property is reassessed at market value when sold or transferred. As a result of a full or partial transfer, the property's assessed value may increase significantly, resulting in higher property taxes due each year. However, if the cotenancy exclusion is granted, the interest transferred from the deceased cotenant to the surviving cotenant would not be reassessed at market value. Instead, the factored base year value will continue as it was prior to the death of the cotenant.

Example—With and Without Cotenancy Exclusion

Two brothers owned a house that both lived in together for ten years before one brother died. The market value of the residence at the time of a cotenant's death in November 2023 was \$700,000, and its factored base year value (FBYV) was \$250,000 for the 2023-24 fiscal year. Title to the property was held in joint tenancy. Without the cotenancy exclusion, the Assessor must reassess the property for a 50 percent change in ownership for the transfer of the deceased brother's interests to the other. The new assessed value would be calculated as follows:

- $700,000 market value / 2 = $350,000 reassessment due to 50% change in ownership
- $350,000 + $125,000 (surviving cotenant's 50% share of the FBYV) = $475,000 new factored base year value
- $475,000 x 1% statewide property tax rate = $4,750 new property taxes

If a cotenancy exclusion was approved, the property's assessed value would remain at its factored base year value of $250,000, increasing only by the annual inflation factor up to a two percent cap in accordance with Proposition 13. For 2024-25, the factored base year value would be $255,000 and property taxes would be calculated by applying the one percent tax rate x $255,000 = $2,550. Therefore, if qualified for the cotenant exclusion, it would save approximately $2,200 ($4,750 - $2,550).

How to Apply for the Cotenant Exclusion

Complete form BOE-58-H, *Affidavit of Cotenant Residency*. Obtain the claim form from the County Assessor's office where the property is located. Submit the completed form to the same office.

When to File Your Affidavit (Claim)

There is no filing deadline; however, if the Assessor reassessed the property upon the death of a cotenant and you paid the taxes on the increased assessment but later file BOE-58-H, the Assessor will reinstate the base year value as it was before the reassessment. Refunds will be issued from the county auditor; however, the law limits refunds to four years from the date the property taxes were paid. For example, if your property was reassessed five years ago upon the death of your cotenant, and you paid the increased property taxes each of those five years but then filed form BOE-58-H, you would only be refunded taxes that were paid within the past four years.

Helpful Hints

- The exclusion only applies to property owned 100 percent by two individuals; it cannot apply if the title is held with more than two cotenants.
- The surviving transferee cotenant must obtain a 100 percent ownership interest via the transferor cotenant's will or trust, intestate succession, or by operation of law. For example, the exclusion can apply if legal title of the residence is held by a trust, either in the cotenant's combined trust or in each of their own separate trusts, and the surviving cotenant is the sole beneficiary of the residence.
- For a duplex or multi-unit property, the exclusion applies only to the unit that the cotenants occupied together. If the two cotenants did not occupy the same unit as a principal residence, then the exclusion will not apply.
- The two cotenants do not have to take title to the residence together at the same time; it does not matter that the deceased was the original owner and the surviving cotenant was added on title later.
- The date of death of a cotenant is considered the date when the property was transferred for property tax purposes.
- If the market value of the transferred property is less than its factored base year value at the time of the transfer, then claiming the exclusion would not be beneficial.
- To verify residency, the Assessor may request proof, such as vehicle registration, voter registration, bank accounts, or state income tax filings.

Where to Find Additional Information

Visit the State Board of Equalization's (BOE) website at *www.boe.ca.gov* for property tax information.

For information on the cotenancy exclusion, refer to Letter to Assessors 2013/021, *Change in Ownership Exclusion—Cotenants*, which can be accessed at *www.boe.ca.gov/proptaxes/pdf/lta13021.pdf*. Also, see Property Tax Rule 462.040(b)(6) *Change in Ownership—Joint Tenancies* at *www.boe.ca.gov/proptaxes/pdf/rules/Rule462_040.pdf* and Property Tax Rule 462.020(b)(5) *Change in Ownership—Tenancies in Common* at *www.boe.ca.gov/proptaxes/pdf/rules/Rule462_020.pdf*.

Visit the County Assessor's website where the property is located. The BOE's website has contact information for each County Assessor in California, available at *www.boe.ca.gov/proptaxes/countycontacts.htm*.