



STATE BOARD OF EQUALIZATION

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September 8, 1989

This is in response to your letter of August 16, 1989, requesting that I confirm in writing our telephone conversation regarding a change in ownership question.

You state that a husband and wife own all of the stock of a corporation. They contemplate purchasing a piece of real property from the corporation at fair market value. They would own the property as tenants in common, in the same proportion as their ownership of the corporation. You ask whether this purchase would trigger a reappraisal.

For property which is purchased or changes ownership after the 1975 lien date, Revenue and Taxation Code section 110.1 defines "full cash value" of real property as the fair market value of the property determined as of the date on which a purchase or change in ownership occurs. Thus, for purposes of discussion here, real property will be reappraised on the date there is a purchase or change in ownership.

Revenue and Taxation Code section 67 defines "purchase" as a change in ownership for consideration. Thus, a transfer qualifying as a change in ownership is required in order to trigger a reassessment as the result of a "purchase." Further, the presence of consideration is not material to the change in ownership determination.

Revenue and Taxation Code section 60 generally 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. Further, subdivision (i) of Revenue and Taxation Code section 61 states that the transfer of any interest in real property between a corporation and a shareholder constitutes a change in ownership. Under the terms of these provisions, the transfer of the real property from your client's corporation to the husband and wife would constitute a change in ownership. These definitions base the change in ownership concept on a transfer of property without regard to whether the transfer was for consideration.

Gray Davis
Controller

September 8, 1989

Revenue and Taxation Code section 62 excludes various listed types of transfers from change in ownership, however. Subdivision (a)(2) excludes any transfer between an individual or individuals and a legal entity which results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, represented by stock, in each and every piece of real property transferred, remain the same after the transfer.

Similar provisions are found in subdivisions (j)(2)(B) and (m)(5) of Property Tax Rule 462 (Tit. 18 of the Cal. Code of Regs. § 462). In particular, see example (v) in subdivision (j)(2)(B) providing that a transfer of real property from a corporation to its sole shareholder is not a change in ownership.

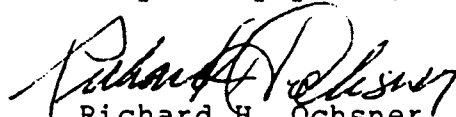
These provisions make it clear that if two owners of a corporation, husband and wife, purchase real property from a corporation and acquire it as tenants in common, retaining the same proportional ownership interests, then the transfer is excluded from change in ownership. Again, the exclusions from change in ownership described in section 62 relate to various types of transfers without regard to whether consideration is present. Thus, the presence or absence of consideration is not material to the determination of whether a change in ownership occurred.

In summary, we conclude that the transfer of the property from the corporation to the husband and wife shareholders is excluded from change in ownership by section 62(a)(2) because the proportional ownership interests in the property transferred remained the same after the transfer.

The views expressed herein are advisory only and are not binding upon the assessor of any county. You may wish to contact the assessor of the county in which the subject property is located in order to confirm whether he will treat the described transaction in a manner consistent with the views expressed above.

Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,



Richard H. Ochsner
Assistant Chief Counsel

RHO:cb/2164D