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Executive Director

August 6, 2015

TO: INTERESTED PARTIES

Enclosed is a copy of Current Legal Digest (CLD) number 2015-1 for your information and review. The annotations included in this CLD are new proposed annotations (in italics) and/or suggested revisions or deletion of existing annotations (indicated by strikeout and italics). After review, please submit any questions, comments, or suggestions for changes *in writing* by **Tuesday, September 8, 2015**. These may be sent by email using the "Comments Form" on the Board of Equalization's (BOE) website (www.boe.ca.gov/proptaxes/ptemail.htm), fax or mail. The mailing address is:

State Board of Equalization
County-Assessed Properties Division
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Please note, the new annotations and/or suggested revisions of existing annotations contained in the enclosed CLD are drafts and may not accurately reflect the BOE's official position on certain issues nor reflect the language that will be used in the final annotation, if formally adopted.

CLDs are circulated for 30 days, at which time any questions are addressed and/or suggested modifications are taken into consideration. After approval of the final version by the BOE's Legal Department, the changes will be posted to the BOE website under "Annotations" (www.boe.ca.gov/proptaxes/annocont.htm). After all proposed changes have been resolved, the CLD will become obsolete and deleted from the website.

This CLD is posted on the BOE website at www.boe.ca.gov/proptaxes/cld.htm. Copies of the backup correspondence are linked to each annotation via the annotation number. If a link does not work, please let us know by using the "Comments Form" on the BOE website (www.boe.ca.gov/proptaxes/ptemail.htm). If you have any questions, please contact Glenna Schultz at 1-916-274-3362.

Sincerely,

/s/ Benjamin Tang

Benjamin Tang, Chief
County-Assessed Properties Division

BT/gs
Enclosure

PROPERTY AND SPECIAL TAXES DEPARTMENT

PROPERTY TAXES CURRENT LEGAL DIGEST NO. 2015-1

August 6, 2015

200.0000 BASE YEAR VALUE TRANSFER – PRINCIPAL RESIDENCE

200.0093.005 **Purchase.** *The purchase of an accessory dwelling combined with the execution of a ground lease for 35 years or more or the outright purchase of that portion of land on which the dwelling is located qualifies as the purchase of a replacement property for purposes of the base year value transfer exclusion under Revenue and Taxation section 69.5(g)(3), as long as the accessory dwelling constitutes the claimant's place of abode and principal residence. C 4/2/2013. [POSTED]*

220.0000 CHANGE IN OWNERSHIP

220.0210 **Exclusions.** ~~If on the death of a spouse the survivor exercises a right to purchase at a fixed price, the separate property residence of the decedent, the transfer would not be eligible for the interspousal exclusion. The survivor would be purchasing the residence from the decedent's heirs who obtained title thereto as of the decedent's death. It is possible that the parent/child exclusion might apply, depending upon the relationship between the heirs and the purchaser. C 5/5/1987. [DELETED]~~

Delete - The transfer described should qualify for the interspousal transfer exclusion, with the deceased spouse, the optionor, as the transferor and the surviving spouse, the optionee, as the transferee.

220.0385.005 **Limited Partnership.** ~~Where a legal entity transfers to a withdrawing owner that portion of real property representing the withdrawing owner's proportionate share of entity ownership, in redemption of its ownership interest, the withdrawing owner becomes a tenant in common with the legal entity. The transfer to the withdrawing owner is excluded from change in ownership under Revenue and Taxation Code section 62(a)(2) and Property Tax Rule 462.180(b)(2). As a result of the withdrawal, each remaining owner's interest in the legal entity would accordingly increase, but such increases would be excluded from change in ownership under Rule 462.180(d)(4). The remaining legal entity owners become original co-owners. If a remaining owner of the legal entity obtains a majority ownership interest as a result of the withdrawal, the obtaining of control would not result in a change in ownership of the portion of real property still owned by the legal entity, because the section 62(a)(2) exclusion takes precedence over the change in control provision of section 64(c)(1). C 1/13/2009. [DELETED]~~

Delete – The backup correspondence incorrectly cites Rule 462.180(d)(4) to exclude the increase in the remaining owners' interest in the legal entity.

220.0454 **Original Co-owners.** ~~Where a legal entity transfers to a withdrawing owner that portion of real property representing the withdrawing owner's proportionate share of entity ownership, in redemption of its ownership interest, the withdrawing owner becomes a tenant in common with the legal entity. The transfer to the withdrawing owner is excluded from change in ownership under Revenue and Taxation Code section 62(a)(2) and Property Tax~~

~~Rule 462.180(b)(2). As a result of the withdrawal, each remaining owner's interest in the legal entity would accordingly increase, but such increases would be excluded from change in ownership under Rule 462.180(d)(4). The remaining legal entity owners become original co-owners. If a remaining owner of the legal entity obtains a majority ownership interest as a result of the withdrawal, the obtaining of control would not result in a change in ownership of the portion of real property still owned by the legal entity, because the section 62(a)(2) exclusion takes precedence over the change in control provision of section 64(c)(1). C 1/13/2009. [DELETED]~~

Delete – The backup correspondence incorrectly cites Rule 462.180(d)(4) to exclude the increase in the remaining owners' interest in the legal entity.

220.0454.010 **Original Co-owners.** ~~Real property is owned by a limited liability company (LLC). Member A proposes to redeem its membership interest in exchange for an undivided interest in the real property equal to Member A's percentage membership interest in the LLC. The LLC will continue to own the remaining undivided interest as a tenant in common with Member A, and the remaining members of the LLC will indirectly own interests in the real property in the same respective proportions that they owned prior to the transaction through their continued ownership of LLC membership interests.~~

~~The transfer of an interest in real property from the LLC to Member A in exchange for Member A's interest in the LLC is excluded from change in ownership under Revenue and Taxation Code section 62(a)(2). As a result of Member A's complete withdrawal from the LLC, each remaining member's membership interest increased. For property tax purposes, this is deemed a transfer to each member of an additional percentage of LLC capital and profits. Because no member will obtain control of the LLC, these transfers are excluded under section 64(a). Additionally, because there is no change in control, there is no need to use the proportional ownership interest transfer exclusion with respect to the increase of the remaining members' membership interests and thus, the remaining members do not become original co-owners under section 64(d). C 7/8/2010. [DELETED]~~

Delete – The backup correspondence incorrectly distinguishes Annotation 220.0454, which incorrectly cites Rule 462.180(d)(4) to exclude the increase in the remaining owners' interest in the legal entity.

220.0703 **Tenancy in Common.** *Cotenancy is the term used to designate ownership by several persons of undivided interests in real property. Cotenants own property by one joint title and in one right, and thus have one common freehold. The assessor is required to assess all real property to the persons owning it on the lien date. The assessor is not required to separately assess each undivided interest of a tenant in common in real property, and a tenant in common does not have the right to compel separate assessment of the undivided interest. While fractional ownership interests must be tracked by county assessors for base year value purposes, the separate assessment of fractional interests is not required. If the property escaped assessment as the result of an unrecorded change in ownership between the cotenants, the escape assessments are secured by the property unless the property is purchased by a bona fide purchaser for value prior to the date of the assessment of the property under Revenue and Taxation Code section 531.2(b). A cotenant who has an ownership interest in a property both before and after the purchase of a fractional interest in that property does not qualify as a bona fide purchaser for value. C 7/15/2013. [POSTED]*

535.0000 LAND USE RESTRICTIONS

535.0060 Subsidy Payments. Revenue and Taxation Code section 402.9 is applicable only to Federal section 236 housing for persons of low and moderate income, not to Federal section 221 subdivision (d)3, Federal section 231, or Farmers Home Administration section 515 housing. C 4/2/1982; C 4/7/1982; ~~C 7/17/1998.~~ **[REFERENCE DELETED]**

Amend - Backup letter C 7/17/1998 is being removed because it conflicts with Revenue and Taxation Code section 402.95.

880.0001(a) WELFARE EXEMPTION – IN GENERAL

880.0128.005 Lease. *A non-qualifying owner of real property cannot meet the ownership requirement of Revenue and Taxation Code section 214 by creating and using a synthetic lease. A "synthetic" or financing lease is a type of purchase agreement whereby the seller accepts periodic payments for the purchase price while retaining title to the property for security purposes. Even though under this type of lease the lessee may be considered the owner of the real property for change in ownership or income tax purposes, section 214 requires fee ownership of the real property by a qualifying organization for exemption purposes. If title to the real property is held by a for-profit organization and is leased to a qualifying organization, fee ownership of the property for exemption purposes is in the for-profit organization. Thus, the property is not eligible for exemption. C 5/30/2013. [POSTED]*