

[Assembly Bill 657](#) (Achadjian)

Date: 01/04/16

Program: Property Taxes

Sponsor: California Assessors' Association (CAA)

Revenue and Taxation Code Section 480

Effective: January 1, 2017

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Summary: For real estate subject to probate proceedings, requires a change in ownership statement filing with the assessor within four months after specified documents are issued to a personal representative with general powers.

Summary of Amendments: The amendments since the last analysis require the change in ownership statement to be filed within four months of when the estate's personal representative is issued specified documents rather than within 150 days of the decedent's death.

Purpose: To timely notify the assessor of the ownership change and prevent those inheriting the property from accruing unpaid tax liability.

Fiscal Impact Summary: No direct revenue impact.

Existing Law: Current law¹ requires that when real property changes ownership, the buyer² must file a "Change in Ownership Statement" (COS) with the assessor in the county where located. But no penalty applies if the statement is not filed.³ The COS serves to notify the assessor of the property's ownership change, which, in the case of an open market sale, requires the property's reassessment. In the case of other types of property transfers between persons, the COS also helps the assessor determine whether any reassessment exclusion, such as the parent-child exclusion, is applicable.

A change in ownership occurs upon the death of a person owning real estate. The law requires the new owner (i.e., the transferee, or the trustee, in the case of a trust) to file a COS within 150 days after the death. But, when the property is subject to probate proceedings, the law allows more time to file the COS. The estate's representative is required to file the COS with the county assessor before or at the same time he or she files the decedent's asset inventory and appraisal documents with the court.

Proposed Law: This bill requires the COS filing for probated property to be within four months after the date "letters testamentary" or letters of administration are first issued to a personal representative with general powers.

Commentary:

1. **The January 4, 2016, amendments** require a COS-filing within four months of when the estate's personal representative with general powers is first issued "letters testamentary" or letters of administration. As introduced, the COS filing requirement would have been changed to within 150 days of the decedent's death. The amendments also update RTC 480 to reflect statutory changes effective January 1, 2016.

¹ Revenue and Taxation Code (RTC) [Section 480](#).

² "Transferee."

³ A penalty only applies if the assessor requests a COS-filing in writing and the new property owner does not comply within 90 days. However, with purchases most buyers fill out an identical form that is filed when the deed is recorded and the assessor has no need to make a written request.

- 2. Effect of this bill.** Moves forward the filing date for COS reporting after the death of persons who own California real estate that is subject to probate proceedings. It requires a COS-filing within four months of when the court gives a personal representative authority to act on behalf of the estate. This would generally move forward the filing date, unless the personal representative was able to immediately file the decedent's inventory and appraisal with the court after being granted these powers. This bill would ensure that the persons who ultimately inherit the property will have timely knowledge of any increased property taxes owed on the property as a result of the change in ownership resulting from the death and avoid added interest charges associated with the accrued taxes.
- 3. Helps prevent escalating tax liabilities for back taxes.** In the case of a probated estate, it may take years before the inventory and appraisal is filed with the court. If the assessor is not notified timely of a death and the property is later reassessed, multiple years of "escape assessments" can accrue. Thus, even if those heirs who inherit the property continued to pay the property taxes on the property, they could owe additional taxes after the assessor becomes aware of the owner's death and reassesses the property. These unanticipated tax bills, which may also accrue interest charges, can be difficult for those who inherit the property to pay.⁴
- 4. Timely discovery enables compliance.** If the property owner's death occurred more than four years prior to the assessor's discovery of the death, the statute of limitations may bar the collection of taxes for certain years where taxes would have been otherwise due. The law generally limits escape assessments to the last four years of back taxes owed, but the assessor could bill for eight years of back taxes if a COS is not filed as required by law.⁵
- 5. There is no penalty for failing to comply.** No new penalty would be created or imposed upon the new property owner.

Administrative Costs: BOE would incur absorbable costs to modify forms, publications, and website materials.

Revenue Impact: No direct revenue impact.

⁴ RTC [Section 531.2](#) (b) allows interest to be added when a COS is not filed as the law requires.

⁵ RTC [Section 532](#) (b)(2)