220.0456 **Original Transferor.** Revenue and Taxation Code section 65(b) defines an "original transferor" as a transferor who creates or transfers a joint tenancy interest and who remains as one of the joint tenants after the creation or transfer of the interest. Persons who purchase property as joint tenants are and remain transferees, not transferors. Thus, a father, mother, and child who purchase and continue to hold real property as joint tenants are not "original transferors", with the result that upon the death of one of the joint tenants, the "original transferor" concept is not available to preclude the termination of such joint tenancy interest from reappraisal as a change in ownership thereof. C 6/29/92.

STATE OF CALIFORNIA

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Executive Director

June 29, 1992

Dear [illegible]

Pursuant to our telephone conversation, enclosed please find a copy of our April 20, 1984, letter (C 4/20/84) concerning Section 65(e), Rule 462(c)(3), and "original transferors".

As you know, the annotation of the letter in Volume 3 of the Board's Property Taxes Law Guide states:

> Joint Tenancy. The rebuttable presumption of Revenue and Taxation Code Section 65(e), that for joint tenancies created on or before March 1, 1975, each joint tenant holding an interest in property as of March 1, 1975, is an "original transferor", is overcome where controverting evidence is available. Such evidence precludes acceptance of the presumption/inference to be made as established fact. C 4/20/84.

The letter itself refers to several dates, among them April 23, 1952, at which time F.D. and F.J. acquired property as joint tenants, and February 22, 1973, at which time F.J., as the sole owner of the property, conveyed the property to F.J. (himself or herself), F.R., and V.M. as joint tenants. While both dates are prior to March 1, 1975, it is the February 22, 1973, date/event which the letter and hence, the annotation address. When, on February 28, 1973, F.J. conveyed the property to F.J., F.R., and V.M., he/she became an original transferor. The rebuttable presumption of Section 65(e) that F.R. and V.M. also were original transferors was overcome by the evidence that it was F.J. who conveyed the property to himself/herself and to

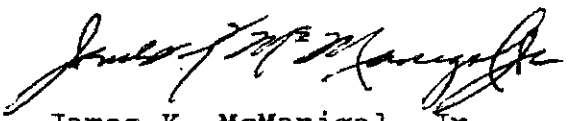
them. Thus, on F.J.'s death, the date of death of the original transferor, there was a 100 percent reappraisal of the property.

Conversely, F.D. and F.J. were not original transferors on April 23, 1952, when they acquired the property from M; they were transferees. As explained in Ms. Barbara Elbrecht's November 3, 1986, letter to Ms. Louie H. Renee, copy also enclosed, Section 65(b) defines an "original transferor" as a transferor who creates or transfers a joint tenancy interest and who remains as one of the joint tenants after the creation or transfer of the interest. And persons who purchase property as joint tenants are and remain transferees, not transferors. When the mother-daughter joint tenancy was created and thereafter, neither joint tenant acted as a transferor by transferring an interest or creating a joint tenancy in a third party while remaining on the deed as a joint tenant. In such an instance, the statutory definition in Section 65(b) of "original transferor" was not met.

Accordingly, if a mother and daughter who purchase and continue to hold real property as joint tenants are not "original transferors", so also are a father, mother, and child who purchase and continue to hold real property as joint tenants not "original transferors", with the result, as set forth in the November 3, 1986, letter, that upon the death of one of the joint tenants, the "original transferor" concept is not available to preclude the termination of such joint tenancy interest from reappraisal as a change in ownership thereof.

In conclusion, 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,



James K. McManigal, Jr.
Senior Staff Counsel

JKM:jd
bob.chr

Enclosure

cc: Mr. Larry Camigi
Solano County Assessor's Office
Mr. John W. Hagerty
Mr. Verne Walton
Mr. Dick Johnson