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March 27, 2001

Honorable Dick Frank, Assessor  
County of San Luis Obispo  
County Government Center, Room 100  
San Luis Obispo, CA 93408

Attention: Barbara Edginton, Assessment Analyst II

Re: *Interpretation of Subdivision (b) of Revenue and Taxation Code Section 532*

Dear Ms. Edginton:

This is in reply to your March 5, 2001 e-mails regarding the interpretation of subdivision (b) of Revenue and Taxation Code section 532.<sup>1</sup> Your inquiries specifically focused upon a further interpretation of the phrase "unrecorded change in ownership or change in control" and the relationship of this concept when real property transfers after a death.<sup>2</sup>

As discussed further below, it is our opinion that the recording of a death certificate would be construed as the recording of a document evidencing a change in ownership and the four-year statute of limitations for escape assessments would apply. However, if it is not possible to relate the decedent's name on a death certificate with the decedent's name on title to property, the recording of a death certificate would not be considered adequate notice to an assessor and the eight-year statute of limitations for escape assessments would apply.

**Factual Background**

It is our understanding that you have posed the following scenarios for our review:

1. Is a death certificate recorded in the recorder's office considered a "recorded document?" (The county health department has a practice of recording death certificates with the recorder's office.) For example, if A is an owner of property in San Luis Obispo County and a death certificate is recorded on February 1, 1993 regarding A's death, but no documents are recorded for properties owned by A, would the 4-year or 8-year statute of limitations under section 532 be applicable?

<sup>1</sup> Unless otherwise indicated, all statutory references are to the Revenue and Taxation Code.

<sup>2</sup> This letter follows up upon the letter sent to you on February 27, 2001.

2. Occasionally, title to property is taken in one name and a death certificate lists a different name for that individual. For example, Betty Smith is the owner of property, but the death certificate is recorded in the name of Constance Elizabeth Forney. Again, no documents are recorded regarding properties owned by the decedent. In such a situation, in which there is no way to relate the decedent with the name listed for the holder of title to property, would the 4-year or 8-year statute of limitations under section 532 be applicable?

### **Law and Analysis**

Subdivision (b)(2) of section 532 states

Any assessment resulting from an unrecorded change in ownership or change in control for which either a change in ownership statement, as required by Section 480 or a preliminary change in ownership report, as required by Section 480.3, is not filed with respect to the event giving rise to the escape assessment or underassessment shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed. For purposes of this paragraph, an "unrecorded change in ownership or change in control" means a deed or other document evidencing a change in ownership that was not filed with the county recorder's office at the time the event took place.

The phrase "unrecorded change in ownership or change in control" in subdivision (b) of section 532 refers solely to deeds or other documents reflecting a change in the recorded title to property. The basic purpose of the requirement for filing change in ownership statements is to give notice and information to the assessor. It has always been understood, however, that the recording of documents of title is also a form of notice to the assessor, since assessors regularly receive recorded information from the recorder's office. Accordingly, the property tax consequences for failing to file a change in ownership statement are *less* severe if documents of title have been recorded and *more* severe if documents of title have not been recorded. Subdivision (b) of section 532 therefore provides an assessor with timeframes for making escape assessments, which are appropriate based upon the information available to and in the hands of the assessor.

Based upon these principles, regarding Scenario #1, the recording of a death certificate would be construed as the recording of a document evidencing a change in ownership and the four-year statute of limitations for escape assessments would apply. The recording of a death certificate is notice to an assessor that a change in ownership may have occurred. It is the assessor's responsibility to investigate all recorded documents. A taxpayer is still obligated to file a change in ownership statement, however, such that the four-year statute of limitations remains applicable in this circumstance.

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Regarding Scenario #2, the mere recording of a death certificate in this circumstance, in which it is not possible to relate the decedent with the name on title to property owned, would not be considered adequate notice and the eight-year statute of limitations for escape assessments would apply. Under this scenario, the recording of a death certificate, without associating the death certificate to real property owned by a decedent, would not put an assessor on notice that a change in ownership may have occurred. As such, the eight-year statute of limitations would be applicable in this circumstance.

The views expressed in this letter are advisory in nature only. They represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

/s/ Anthony Epolite

Anthony Epolite  
Tax Counsel

ASE:tr

prop/prec/escapeas/01/02ase

cc: Mr. Richard Johnson, MIC:63  
Mr. David Gau, MIC:64  
Mr. Charlie Knudsen, MIC:62  
Ms. Jennifer Willis, MIC:70