



STATE BOARD OF EQUALIZATION

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No. 80/39

March 7, 1980

TO COUNTY ASSESSORS:

CHANGE IN OWNERSHIP - CORPORATE STOCK TRANSFERS

Legislative implementation of Proposition 13 provides that with one enumerated exception transfers of ownership interests in corporations, partnerships and other undesignated similar legal entities are not to be considered changes in ownership prompting reappraisal of real property owned by the entity, the interest in which has transferred. The exception, which is contained in Section 64(c) of the Revenue and Taxation Code, has been the source of a number of inquiries because of the reference to director-owned shares, to wit:

"(c) When a corporation, partnership, other legal entity or any other person obtains control, as defined in Section 25105, in any corporation through the purchase or transfer of corporate stock, exclusive of any shares owned by directors, such purchase or transfer of such stock shall be a change of ownership of property owned by the corporation in which the controlling interest is obtained." (Underscore added.)

Obviously, the exclusion from consideration of director-owned shares could be read to apply to directors of either the acquiring company or the acquired company. If the language is viewed as meaning directors of the acquired corporation, it would result in what we regard as an unwarranted result. For example, if all the voting stock in the Widget Corporation is owned by its only directors A, B, and C and they collectively sell all of their shares to the Blodget Corporation, no change of ownership would be deemed to have occurred even though ownership and control, as defined in Revenue and Taxation Code Section 25105, of all the Widget assets have been obtained by the buyer. The logic of such a result escapes us and we can find no legislative history to indicate such an interpretation was intended.

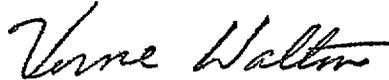
Section 64(c) speaks mainly of an acquiring person or corporation. It is our view, therefore, that the director referred to in the section would be the director of an acquiring corporation. The purpose of the exclusion would be to avoid adding all shares owned by both the corporation and the shares owned by the director of that corporation together to determine if control is gained of the acquired corporation. Such an interpretation recognizes the separateness of the corporation and its director and does not charge the corporation or the director with the ownership or control of property they do not, in fact, own or control simply because of their relationship to one another. This interpretation is also consistent with the legislative

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history in Section 64(c) because prior to the amendments in AB 1019, the section referred only to corporations that acquire control of another corporation.

When looking at the acquired corporation, all stock of that corporation, held by directors or others, must be totaled when purchased by a single person or entity to determine if control has transferred. If two individuals were to separately purchase 15 percent and 40 percent respectively of the voting stock in a corporation, there would be no basis for concluding that control by the corporation has been transferred to a single person or entity. On the other hand, if an individual purchases 15 percent of a corporation's stock and a corporation purchases 55 percent of that corporation's stock, it is the second transfer that comes under Section 64(c). It is important to remember whenever there is a change in ownership of a corporation all of the corporate property is reappraised regardless of the percentage of stock that was acquired and resulted in obtaining of control; e.g., if A owns 45 percent of a corporation's stock and then obtains 10 percent more, all corporate taxable assets would be subject to reappraisal.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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