



STATE BOARD OF EQUALIZATION

1000 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)
(916) 445-4982

CONWAY H. COLLIS
First District, Los Angeles
ERNEST J DRONENBURG, JR
Second District, San Diego
WILLIAM M BENNETT
Third District, Kentfield
RICHARD NEVINS
Fourth District, Pasadena
KENNETH CORY
Controller, Sacramento

DOUGLAS D BELL
Executive Secretary

No. 83/112

October 21, 1983

TO COUNTY ASSESSORS:

LEGAL ENTITY OWNERSHIP PROGRAM
ESCAPE ASSESSMENTS UNDER REVENUE AND
TAXATION CODE, SECTION 64(c)

We have had various recent inquiries concerning escape assessments where a corporation, a partnership, or any other legal entity is acquired and results in a change in control as defined in Section 64(c) of the Revenue and Taxation Code.

Close attention should be given to the retrospective nature of Section 64(c). The cut-off date for determining changes in control is March 1, 1975, for all legal entities; however, escape assessments are restricted. Any change in control occurring on or after March 1, 1975, properly factored applies either first to the 1979 lien date for a corporation or first to the 1981 lien date for any legal entity other than a corporation.

Section 64 was added to the Revenue and Taxation Code by Assembly Bill 1488 (Chapter 242, Statutes of 1979, effective July 10, 1979, but operative for the 1979 lien date). Section 64(c) as added by AB 1488, provided that one corporation acquiring control of another corporation is deemed a change of ownership of the property of the acquired corporation. Section 43 of AB 1488 prohibited, with specified exceptions, escape assessments and/or refunds resulting from the enactment of Article XIII A (Proposition 13) for any year prior to 1979-80. This limitation on escape assessments and refunds meant that although a change in ownership may have occurred because one corporation acquired another corporation after February 28, 1975, the 1978 assessment roll would not reflect that change in ownership but the 1979 and later rolls would.

Assembly Bill 1019 (Chapter 1161, Statutes of 1979, effective September 29, 1979, operative for the 1979 lien date) expanded the "acquiring" corporation category to include not only corporations but also partnerships, other legal entities, or any person. The entity acquired for purposes of Section 64(c) continued to be restricted to a corporation. AB 1019 specified that the new provisions regarding change of ownership apply to the 1979 assessment roll and thereafter.

Assembly Bill 2777 (Chapter 1349, Statutes of 1980) further expanded the "acquired" category to include not only control of a corporation but also a majority interest in any partnership or any other legal entity. Section 5 of AB 2777 made the amendments effective for the 1981-82 assessment year and

provided that no escape assessments may be levied and no refund shall be made for any year prior to 1981-82.

Assembly Bill 3382 (Chapter 1465, Statutes of 1982) changed Section 64(d) to state, "...A transfer of shares or other ownership interests which results in a change in control of a corporation, partnership, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision."

In general, escape assessments resulting from unrecorded changes in ownership or changes in control, where a change in ownership statement was not filed, shall be made within eight years after July 1 of the assessment year in which the real property escaped taxation or was underassessed (Revenue and Taxation Code Section 531.2). However, the earliest lien date for which an escape assessment may be enrolled is 1979 in the case of a corporation (no distinction is made between profit and non-profit corporations) acquired by another corporation, other legal entity (including a partnership), or any other person. In the case of a legal entity (including a partnership) other than a corporation acquired by a corporation, other legal entity, or person, the earliest lien date for which an escape assessment may be enrolled is 1981.

Here are two examples which may make the procedure clearer:

- (1) Shannon Corporation (base year 1975) is acquired 100 percent by any legal entity or person on June 30, 1978. On September 1, 1983 the applicable county assessor(s) is notified. Escape assessments are permitted for lien dates 1979 thru 1983 inclusive.
- (2) Davis Partnership (base year 1975) is acquired 100 percent by any legal entity or person on June 30, 1978. On September 1, 1983 the applicable county assessor(s) is notified. Escape assessments are permitted for lien dates 1981 thru 1983 inclusive. Since the legal entity acquired is not a corporation, escape assessments are only permitted for lien dates 1981 forward.

If you have any questions regarding the contents of this letter, please contact Don Davis or Mike Shannon at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division