

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

(916) 445-4982



WILLIAM M. BENNETT
First District, Kentfield

CONWAY H. COLLIS
Second District, Los Angeles

ERNEST J. DRONENBURG, JR.
Third District, San Diego

PAUL CARPENTER
Fourth District, Los Angeles

GRAY DAVIS
Controller, Sacramento

CINDY RAMBO
Executive Director

October 16, 1989

No. 89/79

TO COUNTY ASSESSORS:

PROPOSITION 58 AND LARSON v. DUCA

This is to inform you of the results of the Larson v. Duca case resolved before the First Appellate District Court. The decision was rendered on August 24, 1989. The case deals with the issue of whether the property of a decedent is transferred to the heir at the date of death for Proposition 58 purposes. The Appellate Court reversed the trial court decision and found that the change in ownership of real property transferred from a mother to her son did not occur on the date of her death but rather it resulted from an order or judicial decree of distribution of the court in which the mother's estate was probated. Since the decree of distribution was issued after Proposition 58 became effective, the son was entitled to the benefits of the Proposition.

The court emphasized the narrowness of its holding to "[w]hen a decedent dies before November 5, 1986, and his child acquires decedent's real property on probate of that decedent's estate through a decree of distribution in those probate proceedings which is issued after November 5, 1986, Proposition 58 proscribes reassessment of that real property by reason of such transfer and change in ownership." Thus, the court is limiting its decision to those facts in this particular case. Those facts are that the decedent died before November 5, 1986 and probate is resolved after November 5, 1986. Such facts permit a severely limited group of probate beneficiaries to enjoy an exclusion from change in ownership while leaving the foundational date of death concept nearly intact.

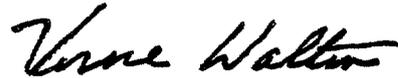
The City and County of San Francisco has asked for a hearing before the California Supreme Court. Until final disposition of this case, it is still our opinion that Proposition 58 does not apply to changes in ownership which occur as the result of a decedent's death occurring prior to November 5, 1986. However, your office may wish to flag affected Proposition 58 claims, or, if the claims were denied, you may wish to notify those taxpayers to file protective appeals in order to fully protect their rights.

TO COUNTY ASSESSORS

-2-

I hope this information will help with the administration of Proposition 58. If you have any questions or need further assistance, please contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:sk