STATE OF CALIFORNIA

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January 10, 1990

No. 90/03

TO COUNTY ASSESSORS:

PROPOSITION 58
LARSON v. DUCA (8/21/89) 213 CAL. APP. 3d 324

This is to inform you that the California Supreme Court has denied a hearing in the above matter and that the decision of the First District Court of Appeal is now final. Thus, Proposition 58 benefits can now be granted to persons previously denied those benefits because the transfer of property was deemed to have occurred when a decedent died prior to November 5, 1986.

Base-year values established where claims were timely filed but denied under the law prior to this decision should be corrected pursuant to Revenue and Taxation Code Section 51.5, with refunds and/or cancellations granted as appropriate.

As noted in letter to assessors 89/79, the appellate court, in reversing the trial court decision, 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. Rather, the change in ownership was deemed by the court to have resulted from an order or judicial decree of distribution of the court in which the mother's estate was probated.

Please note that the Board's legal staff has recommended that assessors not view the decision in the above case as a change in the general rule that a change in ownership occurs on the date of the decedent's death, rather than on the date of distribution of the property in probate proceedings.

At page 334, the court stresses that it is making a very limited ruling. It states, in part:

> "However, we emphasize the narrowness of our holding which is simply this: When 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. We emphasize also that we do not address or decide any other questions beyond the facts of this case."

This is a clear statement that the court intends only to deal with Proposition 58 benefits. Accordingly, it is recommended that assessors apply the holding of this case only to cases which fall within the described facts for purposes of determining Proposition 58 eligibility.

If you have any further questions, please feel free to contact our Real Property Technical Services Unit at (916) 445-4982.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:sk