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No. 2011/052

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TO COUNTY ASSESSORS:

PARENT-CHILD AND GRANDPARENT-GRANDCHILD EXCLUSION:
COOPERATIVE HOUSING CORPORATION

Effective January 1, 2012, Senate Bill 947 (Stats. 2011, ch. 351) amends Revenue and Taxation Code section 63.1 to apply the parent-child or grandparent-grandchild exclusion to a transfer of a unit or lot within a cooperative housing corporation. Section 2(h) of article XIII A of the California Constitution and Revenue and Taxation Code¹ section 63.1 provide that the terms "purchase" and "change in ownership" do not include the purchase or transfer between parents and their children of either a principal residence or the first \$1 million of the adjusted base year value of all other real property. This exclusion also applies, under limited circumstances, to transfers of real property from grandparents to grandchildren.²

Section 63.1(c)(8) provides that real property means that as defined in section 104 and specifically states that real property does not include any interest in a legal entity. Section 104 defines "real property" as land; all mines, minerals, and quarries in the land; all standing timber; and improvements. Pursuant to section 105, improvements includes (1) all buildings, structures, fixtures, and fences erected on or affixed to the land, and (2) all fruit, nut bearing, or ornamental trees and vines, not of natural growth, and not exempt from taxation, except date palms under eight years of age.

A cooperative housing corporation presents a unique situation because, for property tax change in ownership purposes, it is not treated as a legal entity. A cooperative housing corporation is defined in section 61(i) as a real estate development in which membership in the corporation, by stock ownership, is coupled with the exclusive right to possess a portion of the real property. In a cooperative housing corporation, the corporation holds title to the project real estate, with shares in the corporation in turn owned by the project's occupants. Ownership of shares provides the right to lease and use one of the project's dwelling units. For change in ownership purposes, section 61(i) provides that a change in ownership includes the transfer of stock of a cooperative housing corporation, vested with legal title to real property that conveys to the transferee the exclusive right to occupancy and possession of that property, or a portion thereof. Thus, the transfer of a stock share in a cooperative housing corporation results in a change in ownership of the particular unit transferred, unless an exclusion applies.

¹ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

² See Letters To Assessors 97/32 and 2006/025.

SB 947 amends section 63.1(c)(8) to specifically provide for cooperative housing corporations, as follows:

"Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity. For purposes of this section, real property includes an interest in a unit or lot within a cooperative housing corporation, as defined in subdivision (i) of Section 61.

Thus, any transfer on or after January 1, 2012, of a unit or lot within a cooperative housing corporation between parents and children, or, under certain circumstances, from grandparents to grandchildren, may qualify for the change in ownership exclusion if a claim³ is filed with the county assessor.

If you have any questions regarding the parent-child or grandparent-grandchild exclusion, please contact our County-Assessed Properties Division at 916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs

³ BOE-58-AH, *Claim for Reassessment Exclusion for Transfer Between Parent and Child*, or BOE-58-G, *Claim for Reassessment for Transfer from Grandparent to Grandchild*.