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No. 2018/057

December 11, 2018

TO COUNTY ASSESSORS:

**CHANGE IN OWNERSHIP EXCLUSION:
LOCAL REGISTERED DOMESTIC PARTNERS**

Under Revenue and Taxation Code¹ section 62(p), a change in ownership does not include any transfer of property between persons registered as domestic partners with the California Secretary of State.

Effective September 29, 2018, Assembly Bill 2663 (Stats. 2018, ch. 919) adds subdivision (q) to section 62 to provide a retrospective change in ownership exclusion for any transfer of property between local registered domestic partners that occurred on or after January 1, 2000 and through June 26, 2015. This means that a reassessment that occurred during this period may now be reversed on a prospective basis beginning with the lien date of the assessment year in which the claim is filed. However, any transfer of property between local registered domestic partners that occurs on or after June 27, 2015 is not eligible for this new exclusion.

Eligibility Requirements. For a transfer to be eligible for a reassessment reversal, the transferor and transferee must have been in a local registered domestic partnership as of the date of the transfer that caused the reassessment. A *local registered domestic partnership* is a registered domestic partnership established by a city, county, city and county, or special district in which both of the following conditions are met:

- The registrants were of the same sex at the time of registration.
- The registrants were not in a registered domestic partnership with, or married to, any other person at the time of the transfer.

Thus, domestic partners who were registered with the California Secretary of State, registered in another state, or same-sex married persons licensed in other jurisdictions are *not* eligible for this reversal.

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

Qualifying Transfers. Similar to the exclusions for spouses and persons registered as domestic partners with the California Secretary of State, newly added subdivision (q) excludes from change in ownership any type of transfer between local registered domestic partners.

Transfers that may be excluded under subdivision (q) include, but are not limited to, the following:

- Transfers that take effect upon the death of a local registered domestic partner.
- The creation, transfer, or termination, solely between local registered domestic partners, of any co-owner's interest.
- Transfers to a trustee for the beneficial use of a local registered domestic partner, or the surviving local registered domestic partner of a deceased transferor, or by a trustee of such a trust to the local registered domestic partner of the trustor.
- Transfers to a local registered domestic partner or former local registered domestic partner in connection with a property settlement agreement or decree of dissolution of a local registered domestic partnership or legal separation.
- The distribution of a legal entity's property to a local registered domestic partner or former local registered domestic partner in exchange for the interest of the local registered domestic partner in the legal entity in connection with a property settlement agreement or a decree of dissolution of a local registered domestic partnership or legal separation.

The list is not exhaustive; *any* transfer between registered domestic partners that occurred on or after January 1, 2000 through June 26, 2015 may be excluded from the meaning of "change in ownership." This includes, for example, a transfer to a trust for the benefit of a local registered domestic partner, a transfer of an interest in real property to a local registered domestic partner as tenants in common, or any transfer of real property between local registered domestic partners of a co-owned interest.

Any transfer of property between local registered domestic partners that occurred prior to January 1, 2000 or occurs on or after June 27, 2015 is not eligible for this exclusion and is subject to reassessment. In order for transfers of property between local registered domestic partners that occurs on or after June 27, 2015 to be eligible for an exclusion, the domestic partners must be married *or* registered as domestic partners with the California Secretary of State as of the date of transfer.

Claim Must be Filed by June 30, 2022. To receive a reversal of a reassessment, a property owner must file a claim form with the assessor by June 30, 2022. Claims must include documentation naming the transferee and transferor as local registered domestic partners and reflecting the creation of the local registered domestic partnership on a date prior to, or concurrent with, the date of the transfer for which a reassessment reversal is requested. Additionally, the claimant must attest that the information provided on the form is true, correct, and complete to the best of his or her knowledge and belief.

The Board of Equalization is required to prescribe the claim form, entitled "Claim for Reassessment Reversal for Local Registered Domestic Partners." The form was sent separately to county assessors.

Effective Date of Reversal. Under section 62(q)(2)(E), the reassessment reversal granted pursuant to a claim applies commencing with the lien date of the assessment year² in which the claim is filed. This means that the reversal is applied as of the lien date preceding the filing and is effective for the fiscal year that begins July 1 of the calendar year in which the claim is filed. For example, if a claim is filed on February 15, 2019, the exclusion will apply as of the 2019 lien date and is effective for the 2019-20 fiscal year. No refunds will be issued for the 2018-19 fiscal year or any prior years.

Calculation of Prospective Relief Value. Under section 62(q)(2)(F), the value to be enrolled for any claim granted pursuant to these provisions should be the factored base year value in the assessment year in which the purchase or transfer took place, plus inflation adjustments for the interim period up to the current year. The factored base year value of any new construction which occurred between the date of transfer and the date the reversal is being applied should also be added.

Roll Corrections/Refunds. Section 62(q)(2)(E) expressly provides that property tax refunds will not be made for any prior assessment year. The reversal is applied to the fiscal year which begins on July 1 of the calendar year in which the claim is filed. A claim that is filed after July 1 (after the roll has closed) will require a roll correction and a refund if the first installment of property taxes for that fiscal year was paid.

Example

In 2007, A and B purchased a home as joint tenants. A and B registered as domestic partners with their local county health department in July 2010. When A died in November 2014, the property transferred to B by operation of law. The factored base year value just prior to the date of death was \$278,452. The county assessor reassessed 50 percent of the property as of the date of death. The current market value as of date of death was \$600,000.

- For January 1, 2015 lien date following the reassessment, the new combined factored base year value was the sum of \$142,007 ($\$278,452 \times 50\% = \$139,226 \times 1.01998$ inflation factor) and \$300,000 ($\$600,000 \times 50\%$) for a total assessed value of \$442,007.
- In August 2016, a pool and spa were constructed and completed on the property; a base year value of \$25,000 was established for the new construction. For the January 1, 2017 lien date following the reassessment, the new combined factored base year value was the sum of \$457,721 ($\$448,747^3 \times 1.02$ inflation factor) and \$25,000 for a total assessed value of \$482,721.

² Assessment year, as defined in section 118, is the period between lien dates (for example, January 1, 2019 through December 31, 2019).

³ 2015-16 factored base year value of \$442,006 x 1.01525 inflation factor = \$448,747 factored base year value for 2016-17.

- In December 2018, B files a claim for reassessment reversal. Since A and B were registered with their local county health department, the factored base year value may be reinstated as of the January 1, 2018, lien date for the 2018-19 assessment roll.

The following table demonstrates what the factored base year value would be without the change in ownership exclusion for a transfer between local registered domestic partners and how to calculate the base year value to be reinstated after a claim is filed.

<i>Year</i>	<i>Factor</i>	<i>Factored Base Year Value Prior to Claim Filing</i>	<i>Calculation of Factored Base Year Value to be Reinstated for 2018-19 After Claim Filing</i>
2014-15		\$278,452	\$278,452
2015-16	1.01998	\$442,007	\$284,015
2016-17	1.01525	\$448,747	\$288,346
2017-18	1.02	\$482,721	\$319,112 ⁴
2018-19	1.02	\$492,375	\$325,494

The value to be enrolled for the January 1, 2018 lien date is \$325,494. The 2018-19 assessment roll will need to be corrected and refunds processed. However, no corrections or refunds will be made for assessment years 2014-15 through 2017-18.

Application Fee. The county may charge a fee to recoup its costs related to processing the application and reversing the prior reassessment. The fee may not exceed the actual costs incurred.

Enclosed is a copy of new section 62(q). If you have any questions, please contact our County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung, Chief
County-Assessed Properties Division
Property Tax Department

DY:gs
Enclosure

⁴ \$288,346 x 1.02 = \$294,112 + \$25,000 NC = \$319,112

Revenue and Taxation Code
Section 62

(q) (1) Any transfer of property occurring on or after January 1, 2000, to June 26, 2015, inclusive, between local registered domestic partners, including, but not limited to:

(A) Transfers to a trustee for the beneficial use of a local registered domestic partner, or the surviving local registered domestic partner of a deceased transferor, or by a trustee of such a trust to the local registered domestic partner of the trustor.

(B) Transfers that take effect upon the death of a local registered domestic partner.

(C) Transfers to a local registered domestic partner or former local registered domestic partner in connection with a property settlement agreement or decree of dissolution of a local registered domestic partnership or legal separation.

(D) The creation, transfer, or termination, solely between local registered domestic partners, of any coowner's interest.

(E) The distribution of a legal entity's property to a local registered domestic partner or former local registered domestic partner in exchange for the interest of the local registered domestic partner in the legal entity in connection with a property settlement agreement or a decree of dissolution of a local registered domestic partnership or legal separation.

(2) Any transferee whose property was reassessed in contravention of this subdivision shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than June 30, 2022. A county may charge a fee for its costs related to the application and reassessment reversal in an amount that does not exceed the actual costs incurred. This paragraph shall be liberally construed to provide the benefits of this subdivision and Article XIII A of the California Constitution to local registered domestic partners.

(A) After consultation with the California Assessors' Association, the State Board of Equalization shall prescribe the form for claiming the reassessment reversal described in paragraph (2). The claim form shall be entitled "Claim for Reassessment Reversal for Local Registered Domestic Partners."

(B) The information on the claim shall include a description of the property, the parties to the transfer of interest in the property, the date of the transfer of interest in the property, and a statement that the transferee local registered domestic partner and the transferor local registered domestic partner were, on the date of transfer, in a local registered domestic partnership as defined by paragraph (3).

(C) The claimant shall declare that the information provided on the form is true, correct, and complete to the best of his or her knowledge and belief.

(D) The claimant shall provide with the completed claim documentation naming the transferee and transferor as local registered domestic partners and reflecting the creation of the local registered domestic partnership on a date prior to, or concurrent with, the date of the transfer for which a reassessment reversal is requested.

(E) Any reassessment reversal granted pursuant to a claim shall apply commencing with the lien date of the assessment year, as defined in Section 118, in which the claim is filed. No refunds shall be made under this paragraph for any prior assessment year.

(F) Under any reassessment reversal granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (E) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (E) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) For purposes of this subdivision, "local registered domestic partner" means a registered domestic partnership established by a city, county, city and county, or special district in which both of the following conditions are met:

(A) The registrants were of the same sex at the time of registration.

(B) The registrants were not in a registered domestic partnership with, or married to, any other person at the time of the transfer.