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October 15, 2009

Honorable Linda A. Hill
Humboldt County Assessor
Courthouse, 825 5th Street, Room 300
Eureka, CA 95501-1153

**Re: *Change in Ownership – Parent Child Exclusion and Timber Production Zones
Assignment No.: 08-265***

Dear Honorable Ms. Hill:

This is in response to Assistant Assessor Mari Wilson's email, wherein she requested our opinion regarding the application of the \$1 million limit for other real property under the parent child exclusion to the transfer of a family ranch consisting of multiple parcels, a portion of which is also zoned as Timberland Production Zone (TPZ). As discussed below, it is our opinion that to allocate the \$1 million dollar exclusion separately to non-TPZ land within a single parcel, the assessor must find that each parcel is a separate appraisal unit and that each portion of a single parcel, consisting of TPZ land and non-TPZ land, also constitutes separate appraisal units.

Facts

According to your email, a mother died and at her death transferred to her son a number of parcels that make up a family ranch. The total assessed value of all the parcels transferred, excluding a residence on the ranch that was the decedent's principal residence, exceeded \$1,000,000. The taxpayer's attorney is requesting "to allocate the exclusion first to all 'Prop 13' assets (grazing land, sites and improvements) and second to TPZ only as to the amount of the available exclusion not needed to avoid reassessment on the 'Prop 13' assets."

Law & Analysis

Article XIII A, section 2 of the California Constitution ("Proposition 13") requires that real property be reassessed upon a change in ownership. Revenue and Taxation Code¹ section 60 defines a change in ownership as "a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." The parent-child exclusion excludes from change in ownership transfers, between

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

parents and children, of principal residences and the first \$1,000,000 of full cash value of other real property. (Rev. & Tax. Code, § 63.1, subd. (a)(1) and (2).) The monetary limit is sometimes referred to as the \$1 million limit. Section 63.1, subdivision (d)(2) provides that within any appraisal unit, the \$1 million limit shall be applied only on a pro rata basis, and shall not be applied to a selected portion or portions of the appraisal unit.

Section 51, subdivision (d) defines an appraisal unit as "that which persons in the marketplace commonly buy and sell as a unit, or that is normally valued separately." Property Tax Rule² (Rule) 324, subdivision (b) further defines an appraisal unit as "a collection of assets that functions together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law."

The Assessors' Handbook Section 501 (January 2002), *Basic Appraisal* (AH 501), provides further guidance. In the section entitled *Appraisal Unit*, it states:

The proper unit to be valued is the unit that people in the market typically buy and sell. For example, single family homes are sold as a combination of land and buildings. Buyers and sellers do not negotiate separate prices for the land and the buildings but negotiate a price for the combination of the land and buildings. The combination of land and buildings, therefore, comprises the appraisal unit

In some cases, though, the identification of the appraisal unit may not be as easily discernible as with single family homes. For example, unimproved residential subdivision lots may be sold individually or in groups. Also, a farm property may consist of several parcels that could be sold separately or a single farm unit. In these cases, the appraiser must use judgment to determine the proper unit. Decisions should be based on consideration of ownership, use, location, and most importantly, highest and best use. These decisions must reflect, as faithfully as possible, the unit most likely to be sold if the property were exposed to the open market.

Assessors' Handbook Section 502 (December 1998), *Advanced Appraisal* (AH 502), at pp. 2-3 further provides that an appraisal unit may consist of multiple parcels. AH 502 points out the typical examples of a farm being a single appraisal unit even though it consists of multiple parcels and of subdivision lot appraisal units being either multiple parcels or a single one depending upon how they are bought and sold. When determining whether multiple parcels should be considered a single appraisal unit, the following factors should be considered: (1) the functional and economic integration of the parcels; (2) the attainment of the highest and best use when the parcels are analyzed as a single unit; (3) contiguity; (4) common ownership; and (5) current or prior combined sales of the parcels.

TPZ land is not valued under Proposition 13, but rather is valued pursuant to sections 434.5 and 435. The general valuation requirement in section 435, subdivision (a) requires the assessor to use as the value of each parcel of TPZ land, the appropriate site value established pursuant to section 434.5.

In this case, upon mother's death, the property transferred from mother to son, and a change in ownership occurred. (Rev. & Tax. Code, § 60.) However, the parent-child exclusion

² All "Property Tax Rule" or "Rule" references are to sections of title 18 of the California Code of Regulations.

excludes from change in ownership the principal residence and up to \$1 million dollars in assessed value of other real property. Since the assessed value of the ranch, not including the principal residence, exceeds \$1 million dollars, only the first \$1 million dollars in assessed value will be excluded. (Rev. & Tax. Code, § 63.1.) The \$1 million limit must be applied to the appraisal unit on a pro rata basis. (Rev. & Tax. Code. § 63.1, subd. (d)(2).)

As noted above, the definition of an appraisal unit is "a collection of assets that functions together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law." (Rule 324, subd. (b).) In this case, the property in question is a family ranch consisting of multiple parcels.

Thus, the assessor should take into consideration the factors listed above in making a determination as to whether the ranch, consisting of multiple parcels, is a single appraisal unit, or whether any of the individual parcels of the ranch are separate appraisal units. The fact that some of the land within certain parcels is zoned as TPZ does not affect our analysis. If the former, the \$1 million dollar limit must be applied to the entire ranch as a single appraisal unit. If the latter, the \$1 million dollar limit may be applied to each parcel that is considered a separate appraisal unit. A similar inquiry should then be made for each appraisal unit to determine whether or not TPZ-zoned land within that appraisal unit is itself a separate appraisal unit. In other words, whether the TPZ-zoned land would be bought and sold separately in the marketplace. If so, the TPZ-zoned land is a separate appraisal unit, and the \$1 million dollar exclusion can be applied separately to it, if not, the \$1 million dollar exclusion must be applied to the entire appraisal unit.

The views expressed in this letter are only advisory in nature. They represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Sincerely,

/s/ Daniel Paul

Daniel Paul
Tax Counsel

DP/yg

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cc: Mr. David Gau MIC:63
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Mr. Todd Gilman MIC:70