



STATE BOARD OF EQUALIZATION

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Controller, Sacramento

DOUGLAS D. BELL  
Executive Secretary

No. 81/22

February 11, 1981

TO COUNTY ASSESSORS, COUNTY COUNSELS, ASSESSMENT APPEALS BOARDS,  
AND OTHER INTERESTED PARTIES:

PROPERTY TAXES RULE 462

Enclosed is a copy of a notice of public hearing to be held  
March 30, 1981, at 2:00 p.m., in Room 102, 1020 N Street,  
Sacramento, California, on proposed amendments to Rule 462,  
Change in Ownership.

The proposed amendments to Rule 462 are necessitated by  
1979 and 1980 legislation further implementing Article XIII A  
of the Constitution by the addition and amendment of a new  
Chapter 2, entitled Changes in Ownership and Purchase, to  
Part 0.5 of Division 1 of the Revenue and Taxation Code.

Written comments for the Board's consideration, or requests  
to present testimony at the public hearing should be directed  
to me at the above address. Questions regarding the content  
of the rule amendments should be directed to Margaret Shedd,  
Staff Counsel, (916) 323-7712.

Sincerely,

Janice Masterton  
Calendar Clerk

JM:ms  
Enclosures

NOTICE OF PROPOSED REGULATORY ACTION

BY THE

STATE BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Division 1, Part 0.5, Chapter 2 of the Revenue and Taxation Code, and Article XIII A, Sections 1 and 2 of the California Constitution, proposes to amend Regulation 462 in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on March 30, 1981. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: Rule 462 was amended to cause it to conform to recent statutory provisions contained in SB 1260 (Ch. 1081, Stats. 1980) and AB 2777

(Ch. 1349, Stats. 19 80) which were signed into law by the Governor in late September 1930. These two bills make several substantive changes to the concept of change of ownership under Article XIII A of the Constitution and many of the provisions took immediate effect. Rule 462 provides necessary guidance for the reappraisal of property which changes ownership.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change will result in no direct or indirect cost or savings to any State, local, or Federal agency, school district, nor in Federal funding to the State.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by March 30, 1981; written statements or arguments are requested by March 12, 1981.

STATEMENT OF REASONS: The Board has prepared a statement of the purpose of the proposed action and the information relied upon in making the change, which statement is available to the public upon request.

The State Board of Equalization upon its own motion or at the instance of any interested person may adopt the changes proposed without further notice on or after March 30, 1981.

Dated: February 4, 1981

STATE BOARD OF EQUALIZATION

*D. D. Bell*

Douglas D. Bell  
Executive Secretary

Rule No. 452. (Cal. Adm. Code) CHANGE IN OWNERSHIP.

Reference: Article XIII A, Sections 1 and 2, California Constitution.

(a) There shall be a reappraisal of real property as of the date of the a change in ownership of that property. The reappraisal will establish a new base year full value and will be enrolled on the lien date following the change in ownership.

A "change in ownership" in real property occurs when there is a transfer of a present interest in the property, ~~including~~ and a transfer of the right to beneficial use thereof, the value of which is substantially equal to the value of the fee interest. Every transfer of property qualified as a "change in ownership" shall be so regarded whether the transfer is voluntary, involuntary, ~~or~~ by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement (except as provided in (o) (3) for interspousal transfers), or any other means. A change in the name of an owner of property not involving a ~~change-in-ownership~~ transfer of equitable title is excluded from the term "transfer" as used in this section.

(b) ~~(a)~~ A transfer of the full fee title to land and/or improvements or a portion thereof by any means is a change in ownership requiring reappraisal of the property or portion thereof transferred. This includes transfers of units in planned developments as defined in Sections 11003 and 11003.1 of the Business and Professions Code, units in cooperative housing developments controlled by cooperative housing corporations as defined in Section 17265 of the Revenue and Taxation Code and condominiums as defined in Section 783 of the Civil Code or other community ownership projects wherein a transfer of an individual ownership interest in the project results in a transfer of a specific unit, apartment or portion thereof within the project.

(1) A change in ownership does not occur upon the transfer of stock or membership certificates in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221 (d) (3), 221 (d) (4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

(2) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or otherwise changes ownership as defined in this section, only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lots shall be reappraised.

- ~~(b) The transfer of an undivided interest in property does not constitute a change of ownership if:~~
  - ~~(1) The transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change to the proportional interests held by the co-owners prior to the transfer, such as a partition of a tenancy in common, or~~
  - ~~(2) The transfer creates or transfers any joint tenancy interest and after such creation or transfer the transferor is one of the joint tenants.~~
  - ~~(3) The transfer creates or transfers a co-owner's interest between spouses.~~
  - ~~(4) The transfer terminates a joint tenancy, tenancy in common or a community property interest but is to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.~~

ALL STRIKE OUT

~~(5) The transfer terminates an original transferor's interest in a joint tenancy described in (b) (2) above and the interest vests by operation of law in whole or in part in the remaining original transferor(s). It shall be rebuttably presumed by the assessor that each joint tenant holding an interest in property as of March 1, 1975, originally placed in joint tenancy the interest received on termination. This presumption is not applicable to joint tenancies created after March 1, 1975.~~

(6) The transfer terminates a joint tenancy interest, other than an original transferor's interest described in (b) (2) above, and the interest is transferred to an original transferor(s) or to all the remaining joint tenants.

For purposes of (5) and (6) above spouses of original transferors shall also be considered original transferors. Note: The statutory change in ownership treatment afforded joint tenancies for tax purposes contemplates that a joint tenancy consists of separate estates of the joint tenants rather than a single estate.

(7) The transfer is of an undivided interest of less than five percent provided that transfers of such interest during any assessment year to affiliated transferees shall be accumulated for the purpose of determining the percentage transferred.

For purposes of this subdivision affiliated transferees shall include, but not be limited to family members, related by blood or marriage, other than the transferor's spouse, business associates, partners, joint ventures, corporations under common ownership or control or any combination of the foregoing.

When the accumulated interests transferred during any assessment year total five percent or more, exclusive of any interest transferred to a spouse, only that portion of the property represented by ~~the accumulated interests shall be reappraised.~~

ALL UNDERLINE

(c) Tenancies in common

(1) Except as is otherwise provided in subdivision (2), the creation, transfer, or termination of a tenancy in common interest is a change of ownership of the undivided interest transferred.

(2) Exclusions:

(A) The transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change in the proportional interests of the co-owners, such as:

- (i) a partition,
- (ii) a transfer from a co-tenancy to a joint tenancy, or

ALL UNDERLINE

(iii) a transfer from a co-tenancy to a legal entity when the interests of the transferors and transferees remain the same after the transfer. (Such transferees shall be "original co-owners" in determining property to be reappraised in subsequent transfers.) For example, A and B own a parcel of real property as tenants in common each owning a 50% interest. They transfer the property to a newly formed corporation each receiving 50% of the stock. Such a transfer would not be regarded as a change of ownership.

(B) The transfer was between or among co-owners of property which was:  
(i) held by such co-owners for all or part of the period between March 1, 1975, and March 1, 1980, and (ii) the property was eligible for the homeowner's exemption during the entire period of co-ownership.

Any reversal of revaluation made pursuant to this subsection, with respect to the 1980-81 assessment year, shall be made upon application to the county assessor filed on or before February 28, 1981.

ALL UNDERLINE

(C) The transfer is of an undivided interest of less than five percent of the value of the total property and has a value of less than \$10,000 provided, however, that transfers of such interests during any one assessment year shall be accumulated for the purpose of determining the percentage interest and value transferred. When the accumulated interests transferred during any assessment year exceed five percent of the value of the

total property or \$10,000, exclusive of any interest transferred to a spouse or other exempt transfer, only that portion of the property represented by the accumulated interests shall be reappraised.

(D) The transfer creates, or transfers, or terminates, a co-owner's interest between spouses.

(E) The transfer terminates a tenancy in common or a community property interest between spouses or former spouses in connection with a death or a property settlement agreement or decree of dissolution of a marriage or legal separation.

(d) Joint Tenancies

(1) Except as is otherwise provided in subdivision (2), the creation, transfer, or termination of a joint tenancy interest is a change of ownership of the interest transferred.

(A) Examples:

(i) A transfer from A and B, as joint tenants, to C and D, as joint tenants, is a change of ownership of the entire property.

(ii) A subsequent transfer from C, and D, as joint tenants, to C, as sole owner, is a change of ownership of 50% of the property.

(2) Exclusions:

(A) The transfer creates or transfers any joint tenancy interest and after such creation or transfer, the transferor(s) is one of the joint tenants.

(i) Such transferor(s) who is also a transferee(s) in this situation is defined as an "original transferor" in determining the property to be reappraised on subsequent transfers. A spouse of an original transferor shall also be considered to be an original transferor. All other initial and subsequent joint tenants are considered to be "other than original transferors."

(ii) Examples: C and D, as joint tenants, transfer to C, D, E, and F, as joint tenants. No change of ownership because C and D, the transferors, are "original transferors." (E and F are "other than original transferors.")

(B) The transfer terminates an original transferor's interest in a joint tenancy described in (A) and the interest vests in whole or in part in the remaining original transferor(s).

(i) For the 1980-81 assessment year and thereafter, any original transferor's interest which was previously reappraised under Section 65 (a) (1) of the Revenue and Taxation Code in effect prior to September 26, 1980, shall be reversed if it does not constitute a change of ownership in accordance with subsection (B).

(ii) Example: Following example set forth in (A) (ii), C dies or grants his interest to the remaining joint tenants, D, E, and F. No change in ownership because D, an original transferor, remains as a joint tenant.

ALL UNDERLINE

(C) The transfer terminates a joint tenancy interest held by other than an original transferor in a joint tenancy described in (A) and the interest is transferred either:

- (i) To an original transferor(s), or
- (ii) To all the remaining joint tenants.

(D) For other than joint tenancies described in (A), the transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change in the proportional interests of the co-owners, such as:

- (i) a transfer terminating the joint tenancy to separate ownerships of the property in equal shares,
- (ii) a transfer terminating the joint tenancy and creating a tenancy in common.
- (iii) a transfer terminating a joint tenancy to a legal entity when the interests of the transferors and transferees remain the same after the transfer. (Such transferees shall be "original co-owners" in determining property to be reappraised in subsequent transfers.)

(E) The transfer was between or among co-owners of property which was: (i) held by such co-owners for all or part of the period between March 1, 1975, and March 1, 1980, and (ii) the property was eligible for the homeowner's exemption during the entire period of co-ownership.

ALL UNDERLINE

ALL UNDERLINE

Any reversal of revaluation made pursuant to this subsection with respect to the 1980-81 assessment year, shall be made upon application to the county assessor filed on or before February 28, 1981.

(F) The transfer creates, transfers, or terminates a joint tenant's interest between spouses.

(G) The transfer terminates a joint tenancy or a community property interest between spouses or former spouses in connection with a death or a property settlement agreement or decree of dissolution of a marriage or legal separation.

(f) ~~(c)~~ A transfer of equitable title is a change in ownership.

The creation of a life estate or estate for years meeting the requirements of (h)(1)(A) in real property is a change in ownership at the time of transfer unless:

(a) The instrument creating the life estate or estate for years reserves such estate in the transfer or the transferor's spouse. However, the transfer of the life estate or term of years by the transferor or the transferor's spouse to a third party is a change in ownership. In addition upon the termination of the life estate or estate of years by the vesting of the right to possession or enjoyment of a remainderman other than the transferor or the transferor's spouse is a change in ownership.

ALL UNDERLINE

(g) ~~(d)~~ The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term is a change in ownership except when the interest, whether an estate for years or an estate for life, is created by a reservation in an instrument deeding the property to a tax exempt governmental entity.

~~(e) The creation, sublease, assignment or termination of the right to beneficial use and possession of taxable real property and the transfer of the lessor's interest in any leased property constitutes a change in ownership or not as follows:~~

~~(1) The creation of a leasehold interest in real property for a term of 35 years or more or the transfer of a leasehold interest with a remaining term of 35 years or more or the termination of a leasehold interest which had an original term of 35 years or more is a change in ownership.~~

~~The calculation of the term of a lease for purposes of this section shall include written renewal options.~~

~~(2) The sublease or assignment of a leasehold interest in taxable property with a remaining term of less than 35 years, including renewal options, is not a change of ownership regardless of the original term of the lease.~~

~~(3) The transfer of a lessor's interest in taxable real property subject to a lease with a remaining term, including renewal options, of less than 35 years is a change in ownership.~~

~~The transfer of a lessor's interest in taxable real property subject to multiple leases, one or more of which is for a period of less than 35 years and one or more of which is for a period of 35 years or more, is a change of ownership only to the extent of the property subject to a lease(s) of less than 35 years.~~

~~The calculation of the term of a lease for purposes of this section shall include written renewal options.~~

~~It shall be conclusively presumed that all homes eligible for the homeowners' exemption which are on leased land have renewal options on the land of at least 35 years whether or not in fact such renewal options exist in any contract or agreement.~~

(h) Leases

(1) The following transfers of either the lessee's interest or the lessor's interest in taxable real property constitute a change in ownership of such real property:

(A) Lessee's Interest:

(i) The creation of a leasehold interest in real property is for a term of 35 years or more.

(ii) The transfer, sublease, or assignment of a leasehold interest has a remaining term of 35 years or more.

(iii) The termination of a leasehold interest which had an original term of 35 years or more.

ALL STRIKE OUT

ALL UNDERLINE

(B) Lessor's Interest:

(i) The transfer of a lessor's interest in taxable real property subject to a lease with a remaining term of less than 35 years.

(ii) The transfer of a lessor's interest in taxable real property subject to multiple leases, one or more of which is for a remaining term of less than 35 years and one or more of which is for a remaining term of 35 years or more, then there is a change in ownership of the lessor's interest only to the extent that such interest is subject to a lease(s) with a remaining term of less than 35 years.

(2) The following transfers of either the lessee's interest or the lessor's interest in taxable real property do not constitute a change in ownership of such real property.

(A) Lessee's interest:

(i) The creation of a leasehold interest in real property for a term of less than 35 years.

(ii) The transfer, sublease, or assignment of a leasehold interest with a remaining term of less than 35 years (regardless of the original term of the lease).

(iii) The termination of a leasehold interest which had an original term of less than 35 years.

ALL UNDERLINE

(B) Lessor's interest:

(i) The transfer of a lessor's interest in real property subject to a lease with a remaining term of 35 years or more, whether to the lessee or another party.

(3) Once a change in ownership of taxable real property subject to a lease has deemed to have occurred, the value of both the lessee's interest and the reversion (the entire fee interest subject to the lease) is reappraised.

(4) The calculation of the term of a lease for all purposes of this section shall include written renewal options.

(5) It shall be conclusively presumed that all homes (other than mobilehomes subject to Part 13 of Division 1 of the Revenue and Taxation Code) eligible for the homeowners' exemption which are on lease land have written renewal options on the lease of such land of at least 35 years, whether or not such renewal options in fact exist in any contract or agreement.

(i) ~~(f)~~ Foreclosure.

(1) Mortgage or deed of trust foreclosed by judicial action is a sufficient change in ownership only:

(A) After the period of redemption has passed and property has not been redeemed, or

(B) Upon redemption when title vests in the original debtor's successor in interest.

(2) Deed of trust foreclosed by trustee's sale shall cause a reappraisal as of the date the right of possession vests in the purchaser.

(3) A transfer by a trustor in lieu of a trustee's foreclosure sale constitutes a change in ownership.

(i) ~~(g)~~ Transfers resulting from tax delinquency.

Transfers by the sale to or deed to the state and redemption by the former assessee shall not be considered as changes in ownership. However, a sale by the state whether to the original owner or to a new owner is a change in ownership requiring reappraisal as of the date of the sale.

~~(h) Trusts—creation and termination.~~

(1) The transfer of real property to a trust is a change in ownership at the time of transfer unless:

- (A) The transferor or the transferor's spouse is the present beneficiary of the trust, or
- (B) The trust is revocable, or
- (C) The transferor retains the reversion and the beneficial interest(s) created does not exceed 12 years in duration.
- (D) The exemption afforded interspousal transfers applies.
- (E) The transfer is from one trust to another and meets the requirements of (A), (B), (C) or (D).

(2) The termination of a trust or portion thereof constitutes a change in ownership unless:

- (A) The trust was for less than 12 years duration and on termination the property reverts to the trustor or the trustor's spouse or
- (B) The exemption afforded interspousal transfers applies or
- (C) Termination results from the transferor's exercise of the power of revocation or
- (D) Termination results from distribution of trust property in accordance with the terms of the trust to a person or entity who received a present interest subject to reappraisal at the time the trust was created.

(3) A change in ownership of trust property also occurs when:

- (A) A revocable trust becomes irrevocable unless the transferor or the transferor's spouse remains or becomes the present beneficiary of the trust, or
- (B) Neither the transferor nor the transferor's spouse is a present beneficiary of an ~~irrevocable trust.~~

(k) Trusts

(1) Except as otherwise provided in subdivision (2) the transfer by the trustor or trustor's spouse of real property into a trust is a change in ownership of such property. Any transfer to a trust by other than the trustor or trustor's spouse is also a change in ownership of the real property transferred.

(2) Exclusions:

- (A) The trust is revocable by the trustor or the trustor's spouse, or revocable by any other party with the provision that the property is to be returned to the trustor and/or the trustor's spouse upon revocation. Similarly, the transfer of the real property in the revocable trust by the trustee back to the trustor and/or trustor's spouse resulting from the exercise of the power of revocation or otherwise is not a change in ownership.

ALL STRIKE OUT

ALL UNDERLINE

A change in ownership occurs when the trust becomes irrevocable or the property is distributed under the terms of the trust unless the trustor and/or the trustor's spouse is the sole beneficiary. In this regard, a change in ownership occurs when the trust becomes irrevocable, regardless of whether the present beneficiary (other than the trustor and/or trustor's spouse) is only entitled to the income from such real property for a term of years and the remainderman is to receive the real property corpus.'

(B) The trustor and/or the trustor's spouse is the sole present beneficiary of the trust. Similarly, the transfer of the real property in the trust, by the trustee back to the trustor and/or trustor's spouse is not a change in ownership.

(C) The beneficiary of the trust is the trustor's spouse. Similarly, the termination of an interspousal trust is not a change in ownership.

(D) The trustor retains the reversion and the beneficial interest(s) created does not exceed 12 years in duration.

There is no change in ownership upon the transfer into the trust or upon the termination of the trust term.

(E) The transfer is from one trust to another and meets the requirements of (A), (B), (C), or (D).

ALL UNDERLINE

(i) Partnership.

~~Real property which is contributed to a partnership or which is acquired, by purchase or otherwise, by the partnership is a change in ownership of such real property, regardless of whether the title to the property is held in the name of the partnership or in the name of one or more individual partners, with or without reference to the partnership. The transfer of any interest in real property~~

~~by a partnership to a partner or any other person or entity constitutes a change in ownership. The purchase or transfer of an ownership interest(s) in a partnership(s), e.g., the addition or deletion of partners, is not a change in ownership in partnership property.~~

(j) Corporations.

(1) The purchase or transfer of corporate stock(s) is not a change in ownership in corporate property unless:

(A) The stock is in a cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code, and the transfer conveys the exclusive right to occupancy to corporate property or a portion thereof, or

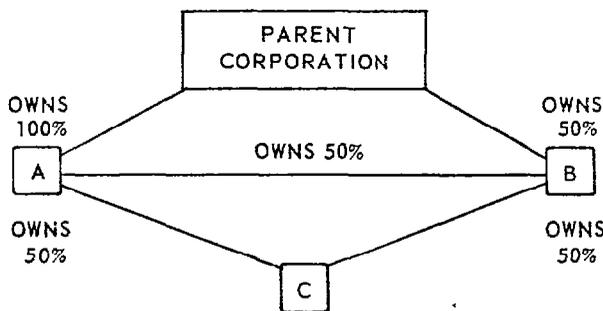
(B) One corporation, partnership, other legal entity or any other person as the result of one or multiple transfers obtains control of more than 50% of the voting stock, exclusive of any shares owned by directors, of another corporation.

(2) The transfer of any interest in real property by a corporation to a stockholder or any other person or entity constitutes a change in ownership but transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization by merger or consolidation shall not be a change of ownership if:

(A) The voting stock of the corporation making the transfer and the voting stock of the transferee corporation are each owned 100 percent by a corporation related by voting stock ownership to a common parent; and

(B) The common parent corporation owns directly 100 percent of the voting stock of at least one corporation in the chain or chains of related corporations.

SIMPLE EXAMPLE



A transfer of real property by P, A, B, or C to any of the other three corporations would not be a change in ownership, e.g., a transfer by C which is wholly owned by A and B to B which is wholly owned by A and P would not be a change in ownership because of those relationships and the fact P owns 100 percent of A.

(3) The purchase or transfer of stock or membership certificates in a housing cooperative is not a change in ownership provided the cooperative was financed under one mortgage, was insured under Sections 202, 213, 221 (d) (3), 221 (d) (4), or 236 of the National Housing Act, as amended, or was financed by a direct loan from the California Housing Finance Agency and the Regulatory and Occupancy Agreements were approved by the respective insuring or lending agency:

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(1) Legal Entities

(1) Except as is otherwise provided in subdivision (2), the transfer of any interest in real property to a corporation, partnership, or other legal entity is a change in ownership of such real property.

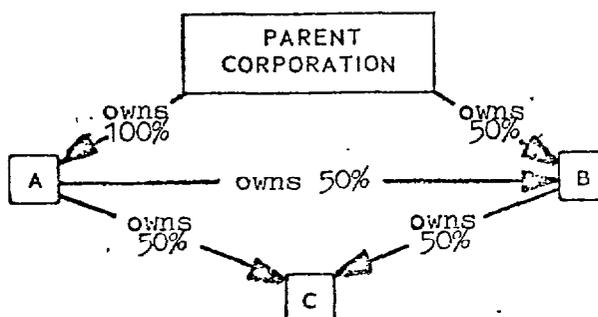
## (2) Exclusions:

(A) Transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization by merger or consolidation if:

(i) The voting stock of the corporation making the transfer and the voting stock of the transferee corporation are each owned 100 percent by a corporation related by voting stock ownership to a common parent and

(ii) The common parent corporation owns directly 100 percent of the voting stock of at least one corporation in the chain or chains of related corporations.

## SIMPLE EXAMPLE



A transfer of real property by P, A, B, or C to any of the other three corporations would not be a change in ownership, e.g., a transfer by C which is wholly owned by A and B to B which is wholly owned by A and P would not be a change in ownership because of those relationships and the fact P owns 100 percent of A.

If a merger or consolidation occurs among non-  
affiliated corporations, only the property  
acquired shall be deemed to have undergone a  
change in ownership.

(B) Transfers of real property between separate legal entities or by an individual(s) to a legal entity which results solely in a change in the method of holding title and in which the proportional interests held by the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in the same property remain the same after the transfer.

Examples:

(i) A transfer of real property from A and B, as equal co-tenants, to Corporation X where A and B each take back 50 percent of the stock.

No change in ownership.

(ii) Same as (i) above, except A and B take back 49 percent of the stock and C receives 2 percent of the stock. Change in ownership of the entire property.

(iii) A transfers Whiteacre to Corporation X and B transfers Blackacre (equal in value to Whiteacre) to Corporation X. A and B each take back 50 percent of the stock. Change in ownership of both Whiteacre and Blackacre.

(3) Except as is otherwise provided in subdivision (4), the purchase or transfer of corporate stock, partnership interests, or ownership interests in other legal entities is not a change in ownership of the real property of the legal entity.

(4) Exceptions:

(A) A corporation, partnership, other legal entity or any person (i) obtains direct or indirect ownership or control of more than 50 percent of the voting stock in any corporation which is not a member of an affiliated group of corporations as described in (2) (A), or (ii) obtains direct or indirect ownership or control of the total interest in partnership capital and profits or (iii) obtains direct or indirect ownership or control of more than 50 percent of the total ownership interest in any other legal entity.

Upon a the acquisition of direct or indirect ownership or control, all of the property owned by the legal entity is deemed to have undergone a change in ownership as well as the real property of any subsidiary of the legal entity of which direct or indirect ownership or control is also acquired.

(B) When real property transferred to a corporation, partnership or other legal entity is excluded from a change in ownership pursuant to (2) (B) and the "original co-owners" as defined in (c) (2) (A) (iii) and (d) (2) (iii) subsequently transfer in one or more transactions, more than 50 percent of

ALL UNDERLINE

the total control or ownership interests in the entity as defined in (4) (A).

The change in ownership requires the reappraisal of the interests in such legal entity cumulatively transferred by the "original coowners"; i. e., a change in ownership of the percentage of such legal entity's property represented by the same percentage of ownership interest transferred by the "original coowners" shall have occurred.

For purposes of this subdivision, persons holding ownership interests in the legal entity immediately following the reappraisal shall be considered the new "original coowners".

(C) The stock is in a cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code, and the transfer conveys the exclusive right to occupancy to corporate property or a portion thereof.

(D) The purchase or transfer of stock or membership certificates in a housing cooperative is not a change in ownership provided the cooperative was financed under one mortgage, was insured under Sections 202, 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or was financed by a direct loan from the California Housing Finance Agency and the Regulatory and Occupancy Agreements were approved by the respective insuring or lending agency.

ALL UNDERLINE

ALL UNDERLINE

(5) Partnership. Except as provided in (2)(B), real property which is contributed to a partnership or which is acquired, by purchase or otherwise, by the partnership is a change in ownership of such real property regardless of whether the title to the property is held in the name of the partnership or in the name of one or more individual partners, with or without reference to the partnership. Except as provided by (2)(B), the transfer of any interest in real property by a partnership to a partner or any other person or entity constitutes a change in ownership. Except as provided in (4)(B), the purchase or transfer of a general or limited partner's interest(s) in a continuing partnership(s), (e.g., the addition or deletion of partners) is not a change in ownership in partnership property.

(m) Miscellaneous arrangements.

(1) There are transactions that may be interpreted to be either a conveyance of the property or a mere security interest therein, depending on the facts. There is a rebuttable presumption under Civil Code Section 1105 that a conveyance is what it is purported to be, a transfer of property. In overcoming this presumption, the intent of the parties is determinative and to ascertain this intent, the following shall be considered:

(A) The existence of a debt or promise to pay.

(B) The fact that the principal amount to be paid for reconveyance is the same as the amount paid for the original deed.

(C) Great inequality between the value of the property and the price alleged to have been paid.

(D) The grantor remains in possession with the right to reconveyance on payment of the debt; and

(E) Declaration of the grantee that he would not take a mortgage but must have a sale of the property.

(F) Written agreement between parties to reconvey property upon payment of debt.

(2) When more than one person's name appears on a deed, there is a rebuttable presumption that all persons listed on the deed have ownership interests in the property. When the presumption is not rebutted, any transfer between the parties will be a change in ownership. In order to rebut the presumption the assessor shall consider:

(A) The existence of a written document executed prior to or at the time of the conveyance in which all parties agree that one or more of the parties do not have equitable ownership interests.

(B) The monetary contribution of each party.

(C) Which party pays the expenses of ownership, such as taxes and insurance.

(3) A holding agreement is an agreement between an owner of the property, hereafter called a principal, and another entity, usually a title company, that the principal will convey property to the other entity merely for the purposes of holding title. The entity receiving title can have no discretionary duties but must act only on explicit instructions of the principal. The transfer of property to the holder of title pursuant to a holding agreement is not a change in ownership. There shall be no change in ownership when the entity holding title pursuant to a holding agreement conveys the property back to the principal.

(A) There shall be a change in ownership for property subject to a holding agreement when there is a change of principals.

(B) There shall be a change in ownership of property subject to a holding agreement for the property that is conveyed by the holder of title to a person or entity other than the principal.

(4) Purchase options.

(A) Except as is otherwise provided in (B), a change in ownership occurs when a purchase option is exercised.

(B) A change in ownership shall occur when the option is created if the option is a form of sales agreement or contract and the circumstances are such that the optionee is economically compelled to complete the transaction, that is, the optionee would realize a significant and immediate equity in the property merely by exercising the option. In determining whether a purchase option is, in fact, a sales agreement or contract, the following should be considered:

- (i) The purchase option specifies a selling price that is significantly less than the current market value.
- (ii) A lessee with a lease/purchase option is paying more than the economic rent and the excess is being applied toward the purchase price.
- (iii) Significant equity is present at the time the option is originated or it can be determined at the time of origination that equity will be established with certainty within a short period.

ALL UNDERLINE

(n) ~~(k)~~ Interspousal transfers.

Notwithstanding any other provision of Sections 450 through 471 of this code, a change in ownership shall not include any interspousal transfer, including, but not limited to:

- (1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,
- (2) Transfers which take effect upon the death of a spouse,
- (3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or
- (4) The creation, transfer, or termination, solely between spouses, of any co-owner's interest.

(c) -~~(f)~~-The following transfers do not constitute a change of ownership:

(1) The transfer of bare legal title, e.g.,

(A) Any transfer to an existing assessee for the purpose of perfecting title to the property.

(B) Any transfer resulting in the creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession or profits.

(2) Any transfer caused by the substitution of a trustee, ~~pursuant to the terms of a security or trust instrument.~~

(3) Any transfer by an instrument whose terms reserve to transferor, the transferor's spouse or both of them an estate for years or an estate for life. When such reserved estates both terminate and if the provisions of this section relating to trusts and interspousal transfers do not provide otherwise, a change in ownership shall be deemed to have occurred.

(4) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(5) Any contribution of real property to an employee benefit plan or the creation, vesting, transfer, ~~distribution~~ distribution, or termination of a participant's or beneficiary's interest in such a plan. The terms used herein shall have the meaning ascribed to them in the Employee Retirement Income Security Act of ~~1974~~ 1974, which is codified as United States Code annotated, Title 29, Section 1002. (The term "any contribution" as used in Section 66 (b) of the Revenue and Taxation Code and this section means only those original contributions of real property made to an employee benefit plan by an employer, a group of employees, or both, without any consideration.)

(6) Any transfer of title between an individual and a legal entity or between legal entities, such as from a cotenancy to a partnership, a partnership to a corporation, a trust to a cotenancy, or an individual to a legal entity, which results solely in a change in the method of holding title and in which the proportional interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, remain the same after the transfer. (Such transferees shall be "original coowners" in determining property to be reappraised on subsequent transfers.)