STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 445-4982 ● FAX 916 323-8765
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

MICHELLE STEEL
Third District, Rolling Hills Estates

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

BARBARA ALBY
Acting Member
Second District, Sacramento

RAMON J. HIRSIG
Executive Director

July 12, 2010

No. 2010/034

TO COUNTY ASSESSORS:

STEINHART v. COUNTY OF LOS ANGELES

On February 4, 2010, the California Supreme Court, in the case of *Steinhart v. County of Los Angeles* (2010) 47 Cal.4th 1298 (*Steinhart*) addressed two issues of importance to county assessors: (1) requirements for exhaustion of administrative remedies, and (2) interpretation of the definition of change in ownership under Revenue and Taxation Code[1] section 60.

The facts of the case were that plaintiff Steinhart was the sister of a trustor of a revocable trust that became irrevocable when the trustor died. Under the terms of the trust, Steinhart received a life estate and other relatives received the remainder interest in trustor's residence. Upon the trustor's death, the county assessor reassessed the residence, issued a supplemental tax bill and then three year's worth of escape assessments that were paid by Steinhart pursuant to the terms of the trust. Several years after trustor's death, Steinhart filed a claim for refund with the county auditor, asserting that there was no change in ownership upon the trustor's death, and upon denial of the refund claim, filed suit against the county in superior court. At no point in time did she file an appeal with the assessment appeals board (AAB).

After the trial court found for the county, Steinhart appealed. On September 28, 2007, the Second District Court of Appeal reversed the trial court, holding that Steinhart had exhausted her administrative remedies and that no change in ownership occurred upon trustor's death.[2] The Court of Appeal expressly disagreed with the decision in *Leckie v. County of Orange*.[3] The Supreme Court granted the county's petition for review. As explained below, the Supreme Court reversed the Court of Appeal's judgment.

Exhaustion of Administrative Remedies

Section 1603(a) provides that an assessment reduction may not be made unless an application for reduction of assessment is filed with the local assessment appeals board. An adverse decision may be appealed to superior court under section 5140, but only after the tax is paid and a claim for refund is denied. The Supreme Court in *Steinhart* held that taxpayers must exhaust their administrative remedies when appealing an assessor's determination that a change in ownership occurred by either:

---

[1] All statutory references are to the Revenue and Taxation Code unless otherwise indicated.
[2] 155 Cal.App.4th 1082 (2007).
[3] 65 Cal.App.4th 334 (1998).

1) Filing with the AAB a timely application for changed assessment that is also designated as a claim for refund as provided in section 1603.
2) Filing a timely application for changed assessment with the AAB and a separate, timely claim for refund under section 5097.

Otherwise, taxpayers are precluded from challenging the new base year value via an action for refund in superior court. In reversing the decision of the Court of Appeal, the Supreme Court rejected Steinhart's argument that application to the AAB was not required because the appeal presented a question of law and presented no issue of fact, holding that the Legislature had clearly provided that questions of change in ownership must be considered by the AAB before appeal in superior court. The court also rejected Steinhart's argument that exhaustion of administrative remedies was futile in her case because the "county" had maintained at the trial and appellate court levels that there was a change in ownership. The court held that her appeal was not futile because there was no showing on the record that, at the time the application would have been timely, the AAB had predetermined its position on the case.

The Supreme Court chose to address the underlying change in ownership question because of the importance of the issue, despite the failure to exhaust the administrative remedies.

Change in Ownership

Section 60 provides that a change in ownership means 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." Property Tax Rule 462.160(b)(2) provides that a change in ownership occurs at the time a revocable trust becomes irrevocable unless the trustor-transferor remains or becomes the sole present beneficiary, or an exclusion applies. Property Tax Rule 462.060 provides that the creation of a life estate in real property is a change in ownership at the time of transfer unless the instrument creating the life estate reserves such estate in the transferor or the transferor's spouse.

The Second District Court of Appeal in *Steinhart v. County of Los Angeles* (2007) held that a life estate is not substantially equivalent to the value of the fee interest, ruled invalid Rule 462.060(a), and held that there was no change in ownership at the time of trustor's death when Steinhart's life estate vested in possession. This decision was contrary to the decision of the Fourth District Court of Appeal in *Leckie v. County of Orange*, as well as that of the First District Court of Appeal in *Reilly v. City and County of San Francisco*,[4] which upheld the validity of Rule 462.060.

In *Steinhart*, the Supreme Court reversed the Second Appellate District Court, holding that the transfer of a life estate and remainder interests upon the death of the trustor of a revocable trust was a change in ownership because the total of the present and future interests transferred upon the death of the trustor was the entire equitable estate in the property. The court relied on the 1979 Task Force Report on Property Tax Administration and the Proposition 13 ballot materials in rejecting Steinhart's interpretation of section 60, that a change in ownership only occurs when

[4] 142 Cal.App.4th 480 (2006).

the value of the *present* interest transferred is substantially equivalent to the value of the fee interest.

Effect on Property Tax Rule 462.060

As the court did not find it necessary to determine whether a life estate alone was substantially equivalent to the value of the fee interest, and did not rule on the validity of Rule 462.060, *Leckie*, or *Reilly*, Rule 462.060 remains valid and the creation of a life estate in real property is a change in ownership unless the estate is for the transferor or the transferor's spouse, regardless of whether additional interests are also transferred.

If you have any questions, please contact our Assessment Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs