

If a transfer of real property to a legal entity is excluded under section 62(a)(2), those persons holding ownership interests in the legal entity immediately after the transaction are deemed the "original co-owners." This term does not apply to the reverse situation; if real property is transferred from a legal entity to individuals, the individuals do not become original co-owners. When a legal entity is involved in a transfer of real property and the ownership interests are not identical, then the entire real property interest transferred is subject to reassessment, not merely the disproportionate interest.

TRANSFER OF INTEREST IN A LEGAL ENTITY

Section 64 sets forth the change in ownership provisions related to the purchase or transfer of ownership interests in legal entities that own real property. Section 64(a) provides the general rule that transfers of interests in legal entities do not constitute changes in ownership of the real property owned by those legal entities. Thus, purchases or transfers of corporate voting stock, partnership ownership interests, LLC membership interests, or ownership interests in other legal entities are not changes in ownership of the real property owned by the legal entity.

However, there are two exceptions to this general rule. The first exception is when a *change in control* of the legal entity occurs, all real property owned by the entity will be reassessed. The second exception is when a legal entity's *original co-owners* cumulatively transfer more than 50 percent of their ownership interests in that legal entity, the real property previously excluded from change in ownership under section 62(a)(2) will be reassessed.

Change in Control

Section 64(c)(1) provides that when any person or entity obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of a corporation, or of more than a 50 percent ownership interest in any other type of legal entity, a reassessment of all the real property owned by the acquired legal entity (and any entity under its control) as of the date of the change in control occurs.

A person or entity obtains *direct control* of an entity when that person or entity acquires:

- (1) Ownership or control of more than 50 percent of the voting stock of a corporation;
- (2) more than 50 percent of the total interest in any partnership or LLC capital and profits; or
- (3) more than 50 percent of the total ownership interest in any other entity.

A person or entity may obtain *indirect control* of an entity by acquiring direct control of another entity that, in turn, directly or indirectly controls such entity.

Transfers by "Original Co-Owners"

On or after March 1, 1975, when real property or an interest in an entity is transferred to a legal entity or between entities in a transaction qualifying for the proportional ownership interest transfer exclusion (ownership interests are the same before and after), then those person(s) or entities holding ownership interests in that legal entity immediately after the transaction are deemed the "original co-owners." If an excluded transaction to a legal entity is made by a trust, the present beneficial owners of the trust property are considered the original co-owners.

Section 64(d) provides that when voting stock or other ownership interests representing cumulatively more than 50 percent of the total interests in a legal entity are transferred by any of the original co-owners in one or more transactions, the real property that was previously excluded from change in ownership under section 62(a)(2) will be reassessed. If the transfer by original co-owners also results in a person or entity acquiring control, then all the real property owned by the entity would be reassessed under section 64(c)(1), not just the real property previously excluded under section 62(a)(2). Any real property acquired by the legal entity for which no section 62(a)(2) exclusion was applied would not be affected by any original co-owner transfers as it was reassessed upon the acquisition.

REPORTING REQUIREMENTS

Reporting a change in control or change in ownership of a legal entity is to be distinguished from reporting a transfer of real property to or from a legal entity or between legal entities. Transfers of real property are to be reported to the county assessor via a *Preliminary Change of Ownership Report* or *Change in Ownership Statement* when a document or deed effecting a change in ownership is recorded. These forms are available from the county assessor or county recorder.

Whenever there is a change in control or a change in ownership of a legal entity that owns³ California real property, the person or legal entity acquiring control or ownership must file a *Statement of Change in Control and Ownership of Legal Entities*⁴ with the State Board of Equalization (Board) within 45 days of the date of the change in control or change in ownership. When the death of a partner or shareholder results in a change in control or change in ownership, the legal entity must file within 45 days of the date of death.⁵ This form, filing requirements, and additional information on legal entity transfers are available from the Board's website at www.boe.ca.gov/proptaxes/leop.htm.

Furthermore, additional information regarding change in ownership is contained in Assessors' Handbook Section 401, *Change in Ownership*, which is posted on the Board's website at www.boe.ca.gov/proptaxes/pdf/ah401.pdf. If you have any questions regarding a change in control or ownership of a legal entity, please contact our County-Assessed Properties Division at 916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
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³ Ownership may include real property held under a lease with a term of 35 years or more, including any options. For further details, please see the Board of Equalization's website at www.boe.ca.gov/proptaxes/leop.htm.

⁴ Form BOE-100-B.

⁵ If, as of the date of death, it is unknown whether a change in control or ownership occurred, the entity should file a protective claim with as much information as is known within 45 days of the date of death. Another BOE-100-B should be filed once a change in control or ownership determination is made.