

[Assembly Bill 657](#) (Achadjian)

Date: 02/24/15

Program: Property Taxes

Sponsor: California Assessors' Association (CAA)

Revenue and Taxation Code Section 480

Effective: January 1, 2016

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Summary: For real estate subject to probate proceedings, this bill requires a change in ownership statement filing with the assessor within 150 days after the owner's death.

Purpose: To more timely notify the assessor of the ownership change and prevent those receiving the property from accruing unpaid tax liability.

Fiscal Impact Summary: No direct revenue impact.

Existing Law: Current law¹ requires that when real property changes ownership, the buyer² must file a "Change in Ownership Statement" (COS) with the assessor in the county where located. But no penalty applies if the statement is not filed.³ The COS notifies the assessor of the property's ownership change, which, in the case of an open market sale, requires the property's reassessment. In the case of other types of property transfers between people, the COS also helps the assessor discover whether any reassessment exclusion, such as the parent-child exclusion, is applicable.

A change in ownership occurs upon the death of a person owning real estate. The law requires a COS to be filed within 150 days after a death. But, if the property is subject to probate proceedings, the law allows the COS to be filed at the same time the estate's representative files the decedent's asset inventory and appraisal documents with the court.

Proposed Law: This bill requires the COS for probated property to also be filed within 150 days of the owner's death.

Commentary:

- 1. Effect of this bill.** Creates a 150-day COS reporting requirement after the death of persons who own California real estate, without regard to whether the real estate is subject to probate proceedings. By requiring a COS filing within 150 days after the date of death, this bill would ensure that the new property owner will have timely knowledge of any increased property taxes owed on the inherited property and avoid added interest charges associated with the accrued taxes.
- 2. Helps prevent escalating tax liabilities for back taxes.** In some cases, initiating probate proceedings after a death may take years. If the assessor is not notified timely and the property must be reassessed, multiple years of "escape assessments" can accrue. Thus, even if the heirs continued to pay the property taxes on the property, they could owe additional taxes after the assessor becomes aware of the owner's death. These tax bills, which may also accrue interest charges, can be difficult for the heirs to pay.⁴

¹ Revenue and Taxation Code (RTC) Section [480](#).

² "Transferee."

³ A penalty only applies if the assessor requests a COS-filing in writing and the new property owner does not comply within 90 days. However, with purchases most buyers fill out an identical form that is filed when the deed is recorded and the assessor has no need to make a written request.

⁴ RTC [Section 531.2](#) (b) allows interest to be added when a COS is not filed as the law requires.

3. **Timely discovery enables compliance.** If the property owner's death occurred more than four years prior to the assessor's discovery of the death, the statute of limitations may bar the collection of taxes for some years where taxes would have been otherwise due. The law generally limits escape assessments to the last four years of back taxes owed, but the assessor could bill for eight years of back taxes if a COS is not filed as required by law.⁵
4. **This bill appears to allow additional escape assessments for probated property if the COS is not filed within 150 days and the assessor does not learn of the death until more than four years later.** Since the law allows assessors to bill for eight-years of back taxes when an unrecorded change in ownership occurs and a COS is not filed, the bill appears to increase the statute of limitations from four years to eight years for probated property. This is the same term that currently applies to escape assessments from non-reported deaths on non-probated property.
5. **There is no penalty for failing to comply.** No new penalty would be created or imposed upon the new property owner.

Administrative Costs: BOE would incur absorbable costs to modify forms, publications, and website materials.

Revenue Impact: No direct revenue impact.

⁵ RTC Section 532