



(916) 324-6594

August 16, 1984

Application of Exemption from
Change of Ownership

Dear

In your letter of July 13, 1984, you asked that we confirm your understanding that the transfer of real property in connection with the corporate reorganization described below would not constitute a change in ownership under 18 California Administrative Code, Section 462(j)(2)(B).

The land in question is presently owned by a corporation identified as "X Corp." All outstanding shares of X Corp. are held by two individuals referred to herein as "A" and "B". A and B each own 50 percent of the outstanding shares of X Corp. X Corp. plans to transfer real property to a new corporation to be formed which is referred to herein as "Y Corp." Upon the transfer, Y Corp. will issue all of its outstanding shares to X Corp. which will immediately distribute 50 percent of such shares to A and 50 percent of such shares to B. As a result, title to the land previously vested in X Corp. (which is owned 50-50 by A and B) will be vested in Y Corp. (which is also owned 50-50 by A and B). The reorganization will be exempt from federal income tax under Internal Revenue Code Sections 355 and 368(a)(1)(D).

18 California Administrative Code, Section 462(j)(2)(B) excludes from the change in ownership provisions:

"Transfers of real property between separate legal entities or by an individual(s) to a legal entity (or vice versa), which result solely in a change in the method of holding title and in which the proportional ownership interests in the property remain the same after the transfer."

August 16, 1984

To the same effect are Revenue and Taxation Code Section 62(a)(2) and 18 California Administrative Code Section 462(m)(5).

The first example of the operation of the above quoted rule describes a transfer from A and B as equal cotenants to X Corp. whereby A and B each take back 50 percent of the stock. The only difference between that example and the transaction proposed here is that the proposed transaction does not even result in a change in the method of holding title. Title would continue to be held in corporate form after the transfer as it was before the transfer. Accordingly, we believe that under the provisions quoted and cited above, the proposed transfer would not constitute a change in ownership. In reaching this conclusion, we recognize that when the transaction is analyzed step by step, the distribution of Y Corp. stock to A and B appears to be a change in ownership under Revenue and Taxation Code Section 64(d). As indicated above, however, since the proportional ownership interests of A and B in the real property transferred would remain the same after the transaction, we believe that the Legislature intended to exclude such transactions under Revenue and Taxation Code Section 62(a)(2) and that the related provisions of 18 California Administrative Code, Section 462, apply.

The views expressed in this letter are, of course, only advisory in nature. They are not binding upon the assessor of any county. You may wish to consult the appropriate assessor(s) in order to confirm that the described property will be assessed in a manner consistent with the conclusions stated above.

Very truly yours,

Eric F. Eisenlauer
Tax Counsel

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