

<u>Grantee</u>	<u>Interest Conveyed</u>	<u>Stock Ownership</u>
Living Trust	21%	10.5%
Living Trust	40%	20%
Living Trust	21%	10.5%
Trust	5%	2.5%
	6-1/2%	3.25%
	<u>6-1/2%</u>	<u>3.25%</u>
TOTAL	100%	50%

The taxpayers contend the foregoing transfers are excluded from change in ownership under Revenue and Taxation Code* section 62(a) because the transfers to the shareholders were proportionate in fair market value to the respective stock ownership of each shareholder.

LAW AND ANALYSIS

Section 60 generally defines a change in ownership as 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.

Section 61 provides that except as otherwise provided in section 62, change in ownership as defined in section 60 includes (at subdivision (i)) the transfer of any interest in real property between a corporation and a shareholder or any other person.

Section 62(a)(2) excludes from change in ownership any transfer between an individual or individuals and a legal entity which results solely in a change in the method of holding title to the real property and in which the proportional ownership interests represented by stock in each and every piece of real property transferred remain the same after the transfer.

The Board has interpreted the foregoing provisions in Property Tax Rule 462(j) in relevant part as follows:

(1) Transfers of property to and by legal entities. Except as is otherwise provided in subdivision (2), the transfer of any interest in real property . . . is a change in ownership of such real property transferred.

*All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

(2) Exclusions

(A)

* * *

(B) 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. . . .

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 100 percent of both Whiteacre and Blackacre.

(iv) Corporation X owns Blackacre and Whiteacre (both are of equal value). A & B each own 50 percent of Corporation X's shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of 100 percent of both Blackacre and Whiteacre.

(v) A transfer of real property from Corporation X to its sole shareholder A. No change in ownership.

From the foregoing, it is clear that in order for a transfer of real property from a corporation to its shareholders to be excluded from change in ownership, the ownership interests in the real property after the transfer must be the same as the ownership interests in the real property as represented by stock were before the transfer. That is not the case here.

With respect to the four parcels transferred to the the ownership interests in that real property are double the stock ownership interests after the transfer as shown above. As to the five parcels not transferred to the their ownership interests in such parcels after the transfer changed to zero.

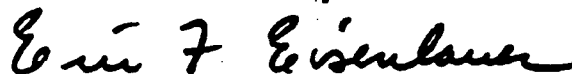
October 31, 1989

The same is true with respect to the other five parcels transferred to the six grantees shown above, i.e., the property interests received are double the stock ownership interest of each grantee. As to the four parcels not transferred to these grantees, the ownership interests in such parcels changed to zero.

Thus, in no case did the proportional ownership interest of any grantee in any parcel remain the same after the transfer. Even assuming for the sake of argument that the value held by each grantee remained the same after the transfer as the taxpayers contend, section 62(a)(2) has still not been satisfied. Examples (iii) and (iv) above make it clear that proportionality of ownership interest is the criterion and not value. Accordingly, a change in ownership occurred with respect to each of the parcels transferred.

Our intention is to provide timely, courteous and helpful responses to inquiries such as yours. Suggestions that help us to accomplish this goal are appreciated.

Very truly yours,



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