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450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082
916-445-6137 • FAX 916-323-3387
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December 8, 2006

Honorable Cris Andrews
Shasta County Assessor-Recorder
1450 Court Street, Suite 208
County Administration Building
Redding, CA 96001

Re: Change in Ownership - IRA

Dear Mr. Andrews:

This is in response to your e-mail dated October 5, 2006, to Ms. _____, requesting an opinion as to whether a change in ownership occurs upon a partial interest transfer of real property from an individual retirement account to the account holder as a tenant in common. For the reasons set forth below, we conclude that there is no change in ownership.

Factual Background

You have provided the following facts:

Taxpayer (TP) owns a rental house in her individual retirement account (IRA).

TP is the owner (custodian) of her IRA.

TP is required to make a distribution from her IRA upon reaching the age of seventy and a half years.

TP does not have sufficient funds in her IRA to make a cash distribution.

In lieu of a cash distribution, TP, as custodian of her IRA, will make a partial interest distribution to herself of twenty percent of the rental property as tenants in common with her IRA. Is this a change in ownership?

Law & Analysis

A “change in ownership” is defined 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. (Rev. & Tax. Code, § 60, subd. (a).) The general rule is that a change in ownership

includes, but is not limited to, the creation, transfer, or termination of a tenancy in common. (Property Tax Rule 462.020, subd. (a).) However, a change in name of an owner of property, not involving a change in the right to beneficial use is excluded from the term transfer, and thus, is not a change in ownership. (See Property Tax Rule 462.001.)

Here, TP was both the custodian and the only beneficiary of her IRA. When TP, as custodian of her IRA, transferred the property to herself as an individual, this was merely a change in the method of holding title without any change in the right to beneficial use. Since TP has the same beneficial ownership before and after the transfer, there is no change in ownership.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Sincerely,

/s/ Mariam Baxley

Mariam Baxley
Tax Counsel

MB:pb

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cc:	Mr. David Gau	MIC:63
	Mr. Dean Kinnee	MIC:64
	Ms. Mickie Stuckey	MIC:62
	Mr. Todd Gilman	MIC:70