



(916) 323-7715

April 20, 1984

Attention:

220.0344
has no label

Dear Ms.

This is in response to your April 6, 1984, letter to Ms. Margaret Shedd wherein you asked whether Property Tax Rule 462(c)(3), which provides that for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975, shall be an "original transferor", prevents 100 percent reappraisal of property as of April 21, 1981, where the following has occurred:

April 23, 1952--M conveys property to
F. D. S. and F. J. S. as joint tenants.

December 10, 1971--F. D. S. dies.

February 28, 1973--F. J. S. conveys property
to F. J. S. F. R. K. and V. M. O. as
joint tenants.

April 21, 1981--F. J. S. dies.

Rule 462(c)(3) is a restatement of Revenue and Taxation Code Section 65(e). Generally, rebuttable presumptions are inferences that, in the absence of any controverting evidence, are to be made and accepted as established facts. Thus, Section 65(e) and Rule 462(c)(3) were enacted to so provide as to "original transferors" because of the possibly large number of instances in which there would be no evidence

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available as to whether a joint tenant in a joint tenancy created on or before March 1, 1975, was an "original transferor" and because of additional instances in which evidence would not be readily available and/or conflicting or incomplete as to whether a joint tenant in a joint tenancy created on or before March 1, 1975, was an "original transferor".

Where, as in this instance, however, the evidence is available and is contrary to the presumption, the presumption is overcome and dispelled. Thus, neither Section 65(e) nor Rule 462(c)(3) is applicable, and there is a change in ownership of the entire property requiring 100 percent reappraisal (Section 65(c)) as of the April 21, 1981, date of F. J. S death (Rule 462(n)(3)).

Enclosed is a copy of a June 1, 1983, letter from Ms. Shedd to Mr. which happens to be factually similar to this instance and which is to the same effect.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fr

Enclosure

bc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton
Legal Section