

(916) 323-7712

March 2, 1984

This is in furtherance of our recent telephone conversation and in response to your letter of February 25, 1984. It is my understanding, from both our conversation and your letter, that you would like our opinion of whether an amendment to a partnership agreement, providing that the proceeds from the sale of particular parcels of partnership property would be allocated to particular partners, would constitute a change in ownership of the partnership property.

It is our opinion that such an amendment to a partnership agreement would not, in and of itself, constitute a change in ownership of the partnership property, so long as the title to the property remains in the name of the partnership. This opinion is based on our interpretation of Revenue and Taxation Code Section 60 that an assignment of proceeds from a future sale of real property does not constitute a transfer of a present, beneficial interest in such property, which is substantially equal to the value of the fee interest. However, if upon the sale of any particular parcel any particular partner receives more than a 50% interest in the capital and profit account, then there will be a change in control of the partnership pursuant to Revenue and Taxation Code, Section 64(c).

Very truly yours,

Margaret S. Shedd
Tax Counsel

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Corp

March 15, 1984

This is in response to your telephone inquiry concerning the meaning of the third sentence in the second paragraph of Tax Counsel Margaret Shedd's March 2, 1984, letter to Mr.

"However, if upon the sale of any particular parcel any particular partner receives more than a 50% interest in the capital and profit account, then there will be a change in control of the partnership pursuant to Revenue and Taxation Code, Section 64(c)."

In the case of partnerships, which are regarded as entities separate and distinct from the individual partners for purposes of "change in ownership", of importance are the individual partners' interests in the partnership capital and profit accounts in determining whether there is a change in control (Revenue and Taxation Code Section 64(c)) and hence, a change in ownership of a partnership's real property. When an individual partner's capital and profit accounts exceed a 50% interest in the total partnership capital and profit accounts, Section 64(c) provides that a change in ownership has occurred.

Thus, assuming a partnership having three partners, with each partner having a 33-1/3% interest in the partnership capital and profit accounts, if one partner's additions to capital and profits increase at such a rate that his capital and profit accounts exceed a 50% interest in the total

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partnership capital and profit accounts, there is at that time a change in control and a change in ownership of the partnership's real property.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

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