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220.0499 **Partnership.** The purchase by two partners of a third partner's partnership interest does not result in a change in ownership in partnership property if neither partner obtains more than a 50 percent interest in both partnership capital and profits ~~and the purchase does not result in termination of the partnership because of a continuation clause in the partnership agreement~~ *whether or not the partnership is a continuing one.* C-11/15/89 LTA 8/21/96 (No. 96/52).



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November 15, 1989

Dear,

This is in response to your letter of October 16 requesting advice on the property tax consequences of a proposed change in the Lake Almanor Forest Estates Partnership.

Your letter states that the Lake Almanor Forest Estates Partnership is owned by three partners. The partners are Ed Greenlee (43.4%), Baldwin Contracting Company, Inc. (48.28%), and John DeLapp (8.32%). The partnership's sole asset is a subdivision of undeveloped real property located in the Lake Almanor area of Plumas County. You ask, if each of your clients becomes a 50% partner in the partnership, whether the acquisition of the additional ownership interests by these partners will constitute a change in ownership and result in a reassessment of the partnership of real property.

Your letter also refers to a December 13, 1982, opinion letter from then Assistant Chief Counsel Glenn L. Rigby to Mr. Douglas Tande, Chief Appraiser of the Plumas County Assessor's office, relating to the same partnership. Under the facts described in that letter, John DeLapp owned a 19% interest in the partnership and wished to transfer that interest to the partnership in exchange for a share of the partnership lots. Mr. Rigby's letter described the property tax consequences of this proposed transaction.

We assume that the facts described in your letter are a variation on the earlier described transaction and that your clients are partners Ed Greenlee and Baldwin Contracting Company. Further, we assume that the partnership has a continuation clause which prevents the dissolution of the partnership on the withdrawal of one of the partners.

Revenue and Taxation Code section 64(a) provides that, with certain exceptions, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity. See also Property Tax Rule 462 "Change in Ownership" (18 Cal. Code of

November 15, 1989

Regs. § 462), subdivision (j)(3) to the same effect. The exceptions to this general rule are found in subdivision (h) of Revenue and Taxation Code section 61 and subdivisions (c) and (d) of section 64. Based upon the facts provided, it appears that subdivision (c) of section 64 is most pertinent to the question presented. Subdivision (c) provides that when a corporation, partnership, other legal entity or any other person obtains a majority ownership interest in any partnership through the purchase or transfer of partnership interests such transfer shall be a change in ownership of the property owned by the partnership in which the controlling interest is obtained. See also Rule 462(j)(4) (A) (ii), which recognizes that a change in ownership occurs if direct or indirect ownership of more than 50 percent of the total interest in both partnership capital and profits is obtained by a corporation, partnership, other legal entity or any person.

Since, under the facts presented, neither partner will acquire a majority ownership interest in the partnership (i.e., more than 50% of the total interest in both partnership capital and profits) it would appear that the exception provided by subdivision (c) of section 64 is inapplicable. In the absence of any information indicating that any of the other exceptions provided for in subdivision (a) of section 64 are applicable, we conclude that the acquisition of the additional partnership interests by your clients would not constitute a change in ownership resulting in a reassessment of the partnership property.

The views expressed in this letter are advisory only and are not binding upon the Plumas County Assessor. You may wish to consult the Assessor in order to determine whether he will treat the described transaction in a manner consistent with the views expressed above.

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,

Richard H. Ochsner
Assistant Chief Counsel

RHO:cb/2241D

cc: The Honorable Ernest R. Eaton, Jr.
Plumas County Assessor
Mr. John W. Hagerty
Mr. Verne Walton



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August 21, 1996

TO COUNTY ASSESSORS:

CHAPTER 491 (SENATE BILL 821), CHAPTER 497 (SENATE BILL 722), AND
CHAPTER 527 (SENATE BILL 716), STATUTES OF 1995

Chapters 491 (Senate Bill 821, Hurtt), 497 (Senate Bill 722, Committee on Revenue and Taxation), and 527 (Senate Bill 716, Committee on Revenue and Taxation) were signed by the Governor and became effective on January 1, 1996. Chapter 497 was Board-sponsored legislation. These three bills affect various areas of property tax law and will be discussed separately.

SENATE BILL 821 (Hurtt) CHAPTER 491

BASE YEAR VALUE. Chapter 491 clarifies that once the base year value is adjusted downward to reflect the current market value (Proposition 8), the property must be annually reappraised until the current market value exceeds its factored base year value. This bill relettered Revenue and Taxation Code (all statutory references are to the Revenue and Taxation Code unless otherwise indicated) §51 beginning with the first paragraph as subdivision (a). The last paragraph is (e) which reads (changes denoted by italics):

"(e) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property. However, for each lien date after the first lien date for which the taxable value of property is reduced pursuant to paragraph (2) of subdivision (a), the value of that property shall be annually reappraised at its full cash value as defined in Section 110 until that value exceeds the value determined pursuant to paragraph (1) of subdivision (a). In no event shall the assessor condition the implementation of the preceding sentence in any year upon the filing of an assessment appeal."

owned by the partnership. This is declaratory of existing law. Subdivision (c)(1) now reads (changes denoted by italics):

"(c)(1) When a corporation, partnership, limited liability company, other legal entity, or any other person obtains control *through direct or indirect ownership or control of more than 50 percent of the voting stock of any corporation*, or obtains a majority ownership interest in any partnership, limited liability company, or other legal entity through the purchase or transfer of corporate stock partnership, or limited liability company interest, or ownership interests in other legal entities, *including any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained*, the purchase or transfer of that stock or other interest shall be a change of ownership of *the real* property owned by the corporation, partnership, limited liability company, or other legal entity in which the controlling interest is obtained.

It has been the Board's consistent administrative interpretation that a single transfer of more than 50 percent of the voting stock of a corporation or ownership interests in a partnership is not necessary in order to obtain control or majority ownership. Rather, such control may be obtained through more than one transfer of ownership interests. For example, person A could acquire 40 percent of the stock of Corporation X. Assuming A did not previously own any stock in this corporation, this purchase would fall under the general rule in subdivision (a) and would not constitute a change in ownership of the corporation's real property. If A then acquired another 9 percent of the voting stock, the same rule would apply. If A acquired another 2 percent, however, A would have obtained control (51 percent) and there would be a change in ownership of the real property of the corporation pursuant to the terms of subdivision (c).

Chapter 497 also added paragraph (2) to subdivision (c):

"(2) On or after January 1, 1996, when an owner of a majority ownership interest in any partnership obtains all of the remaining ownership interests in that partnership or otherwise becomes the sole partner, the purchase or transfer of the minority interests, subject to the appropriate application of the step-transaction doctrine, shall not be a change in ownership of the real property owned by the partnership."

It should be noted that the amendment refers to a situation "when an owner of a majority ownership interest in any partnership obtains all of the remaining ownership interests in that partnership or otherwise becomes the sole partner." (Emphasis added.) The latter phrase has been added to address situations where the majority partner, rather than directly acquiring the minority interests, has the partnership acquire the minority interest. In either case, the majority owner then becomes the sole 100 percent partner.