



(916) 445-4588

December 24, 1981

Dear Mr. S :

Mr. G of our Technical Services Section asked that I respond to your letter of December 18, 1981. In that letter you requested our opinion as to the application of the change in ownership rules to the following hypothetical situation:

Assume property owners A, B, and C took title to a single parcel of property as tenants-in-common on January 12, 1973.

Assume on August 4, 1980 that A, B and C executed and recorded a quit-claim deed to themselves forming a joint tenancy between the three of them.

Assume on August 5, 1980, A and B, joint tenants deeded their interest in the property to C, the third joint tenant.

Although under the hypothetical situation the steps taken, at least in form, meet the exclusionary rules of change in ownership under Section 62(f) and Section 65 of the Revenue and Taxation Code, it appears the only reason for taking the first step on August 4, 1980 was to try to circumvent the intent of the change in ownership statutes. It seems clear that this hypothetical constitutes a classic step transaction scenario. Therefore, under the doctrine set forth in Kimbell-Diamond Milling Co. v. Commissioner of Internal Revenue, 187 F. 2d 718 (14 T.C. 74) (1951), the initial transfer would be ignored since it was contemplated from the outset that C was to receive A and D's interest.

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Under these circumstances, we would conclude that A and B, for all intents and purposes, transferred their tenancy-in-common interests to C. This would require their interests to be reappraised at fair market value.

Very truly yours,

Assistant Chief Counsel

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