



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
1020 N STREET, SACRAMENTO, CALIFORNIA
(PO BOX 1799, SACRAMENTO, CALIFORNIA 95808)
(916) 445-4982

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No. 80/84

TO COUNTY ASSESSORS:

CHANGE IN OWNERSHIP – PARTITIONS

Section 62(a) of the Revenue and Taxation Code states that a "change in ownership" shall not include:

"(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as the partition of a tenancy in common."

There have been numerous technical problems in the application of this section. Questions posed by assessors can be classified in three general areas:

- (1) Under what conditions is the section applicable?
- (2) How do you determine the proportional interest held after the transfer?
- (3) What is revalued when there is a change in the proportional interest?

Applicability

A partition is a division of property giving separate title to those who previously held undivided interests. The provisions of Section 62(a) are applicable only to the transfer of interests held in joint tenancy and tenancy in common. Partitions between co-owners involving other forms of co-ownership (community property and partnerships) are specifically covered in other code sections.

The application of Section 62(a) when a single parcel is being split is relatively simple. When a partition involves more than one property or parcel its application becomes more complex. Although there are no statutory limitations placed upon the location or extent of the property involved in the transfer, it is our position that Section 62(a) should be applied separately to each appraisal unit. For example, the splitting of a farm containing ten parcels would not be a change in ownership if the proportional interests remained the same. However, the splitting of jointly held interest in two separate and distinct properties would require the comparison of the proportional interests held before and after the transfer in each separate property.

Historically, assessors value property on the basis of the "appraisal unit." That unit is defined in Assessors' Handbook Section 501 as the "unit most likely to be sold as indicated by the analysis of

market data." We feel that using the "appraisal unit" basis in regard to Section 62(a) transfers is not only consistent with appraisal practice but also the most practical approach from an administrative standpoint.

Determining Proportional Interests

In order to determine whether or not the same proportional interest exists after the transfer, it is necessary to establish and compare the market value of each property that has been created by the transfer. For example, if a two-acre parcel being held jointly is split into two separately held one-acre parcels, the value of each one-acre parcel, as a separate unit, must be determined and the two values compared.

While the specific language of the statute would indicate that any change in the proportional interests would trigger a reappraisal, the assessor can exercise his judgment in making the value comparison. In our opinion, a change in proportional interest of less than 5 percent could be construed as no change in ownership following the same principle applicable to transfers of undivided interests of less than 5 percent (Revenue and Taxation Code Section 65[b]).

Valuation

Once it has been determined that a change in proportional interests has occurred, the interest transferred is subject to revaluation. For example, if a parcel was held jointly (50 percent interest each) and the property was divided so that one party receives 60 percent and the other 40 percent, a new base year would be established for the 10 percent interest transferred. The correct method of valuation would be to calculate 10 percent of the combined current market values of the two individual holdings and add this amount to the original factored base year value of the increased holding. The revised base year value of the decreased holding would be 40 percent of the original base year value of the undivided property.

Examples of Section 62(a) Application

Example #1

Persons "A" and "B" are co-owners of a farm consisting of ten parcels. "A" and "B" are equal tenants in common (1/2 undivided interest each). The appraisal unit is determined to be the entire farm and the base year value of the appraisal unit is \$300,000 (each owner has 1/2 interest valued at \$150,000). A transfer is then implemented granting person "A" severalty ownership of six parcels and person "B" severalty ownership of four parcels. The interests held by each owner must be appraised to determine if either interest has changed proportionally in value. If "B's" new holding has a current market value of \$400,000 and "A's" new holding has a current market value of \$600,000, there has been a change in ownership of 10 percent interest (i.e., "A" now holds 60 percent and "B" holds 40 percent). "B's" base year value must be reduced since he now owns less than he did prior to the transfer. His new value would be \$120,000 ($\$300,000 \times .40$). "A's" value must be increased. His \$150,000 base value would remain intact, but the 10 percent interest transferred (he owned 50 percent originally and now owns 60 percent) would be added to the \$150,000. His new base would be $\$150,000 + \$100,000$ (10 percent of the new total market value of \$1,000,000) or \$250,000.

Example #2

Persons "A" and "B" own 1/2 undivided interest each in two single-family residential vacant lots. The lots are the same size and have the same value (\$5,000 base and \$10,000 current market). A transfer is implemented to give "A" and "B" severalty (single) ownership of one lot each. If each lot is determined to be a separate appraisal unit, this would be a change in ownership transaction. Each owner had an undivided 1/2 interest in a given appraisal unit. Each ended up with severalty ownership of the entire unit thereby gaining a 1/2 interest in the unit. A reappraisal of the 1/2 interest transferred would be in order. The new base year value of each lot would be \$2,500 (1/2 the old base) + \$5,000 (1/2 of the market value of \$10,000) or \$7,500. For the Section 62(a) exclusion to apply, each co-owner would have to receive 1/2 of each lot by way of a lot split, thereby receiving 1/2 of the appraisal unit.

If you have any questions regarding the above, please contact John McCoy of this division; his telephone number is (916) 445-4982.

Sincerely,

Verne Walton, Chief
Assessment Standards Division

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