

FILED WITH PERMISSION

Case No.:S266590

IN THE SUPREME COURT OF CALIFORNIA

**AMEN FAMILY 1990 REVOCABLE TRUST, Real Party in
Interest**

Appellant

v.

JEFFREY PRANG, Los Angeles County Assessor

Respondent

After a Decision of the Court of Appeal
Second Appellate District, Division Five
Appeal Case No. B298794
Appeal from Los Angeles Superior Case No. BS173698
Hon. James C. Chalfant

**EXHIBITS IN SUPPORT OF APPELLANT'S OPENING
BRIEF**

VOL. 1 OF 1 [PAGES 1-96]

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DATE: April 15, 2021

Respectfully submitted,

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By: /s/ Colin W. Fraser

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EXHIBIT A

Filed 12/7/20

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FIVE

COURT OF APPEAL – SECOND DIST.

FILED

Dec 07, 2020

DANIEL P. POTTER, Clerk

kdominguez Deputy Clerk

JEFFREY PRANG, Los Angeles
County Assessor,

Plaintiff and Respondent

v.

LUIS A. AMEN et al., as Trustees,
etc.,

Real Party in Interest and
Appellant,

B298794

(Los Angeles County
Super. Ct. No. BS173698)

APPEAL from a judgment of the Superior Court of Los Angeles County, James C. Chalfant, Judge. Affirmed.

Greenberg Traurig, Colin W. Fraser and Cris O'Neal for Real Party in Interest and Appellant.

Lamb and Kawakami, Thomas G. Kelch and Michael K. Slattery; Mary C. Wickham, County Counsel, Nicole Davis Tinkham, Assistant County Counsel, and Richard Girgado, Deputy County Counsel for Petitioner and Respondent.

Ajalat, Polley, Ayoob & Matarese, Richard J. Ayoob, Christopher J. Matarese and Gregory R. Broege for Amicus

Curiae Ajalat, Polley, Ayoob & Matarese.

California State Association of Counties and Jennifer B. Henning for Amicus Curiae California State Association of Counties and the California Assessors Association.

McDermott Will & Emery and Charles J. Moll, III, for Amicus Curiae Charles J. Moll III.

Xavier Becerra, Attorney General, Tamar Pachter, Assistant Attorney General, Karen W. Yiu and Heather B. Hoesterey, Deputy Attorneys General, for Amicus Curiae California State Board of Equalization.

The Revenue and Taxation Code provides that a transfer of real property between legal entities triggers a reassessment of the property's value for tax purposes. Importantly for this appeal, the code also contains an exception to this rule when the proportional ownership interests in real property of the transferor and transferee—"whether represented by stock" or another measure—remain the same after the transfer. This appeal raises the question of how we should interpret "stock" in the phrase "proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred." (Rev. & Tax. Code, § 62, subd. (a)(2).) Specifically, does "stock" refer only to voting stock or all classes of stock?

Appellants, the trustees of the Amen Family 1990 Revocable Trust (Trust or Appellant), challenges respondent Los

Angeles County Assessor’s (Assessor) reassessment of property the Trust received from a corporation that the Trust had partially owned.¹ Although there were at least five owners of the stock of the transferor corporation (including the Trust) and the transferee was solely the Trust, the Trust contends the proportional ownership interest exception applied because it had owned all the voting stock in the corporation. In the Trust’s view, ownership interests in real property held by a corporation should be measured by voting stock alone, meaning that the Trust was the sole owner of the real property held by the corporation, and remained the sole owner after the corporation transferred that property to the Trust. The Assessor measured ownership in the real property held by the transferor corporation by all stock—voting and non-voting.

According to the Trust, the term “stock” as used in Revenue & Taxation Code section 62, subdivision (a)(2) (section 62(a)(2)) should be interpreted to mean only voting stock.² The Assessor argues “stock” in section 62(a)(2) means exactly what it says—stock—and applies to all classes of stock, including for present purposes both voting and non-voting stock. Under this interpretation, the Assessor was right to reassess the property

¹ The State Board of Equalization (SBE) and others filed amicus curiae briefs at our invitation. Under California Rules of Court, rule 8.20(c)(6) we provided the parties with an opportunity to respond to the amicus arguments and each filed a supplemental brief.

² All further statutory references are to the Revenue and Taxation Code.

after the transfer because the proportional ownership interests, as measured by all the stock of the transferor corporation, had changed.

The trial court agreed with the Assessor and upheld the reassessment. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Super A Foods, Inc. (the “Corporation”) held title to two pieces of real property (the “Property”) in Los Angeles. All of the Corporation’s voting stock was issued to the Trust. The Corporation’s non-voting stock was issued to the Trust and several other individuals, including a company employee.

On December 5, 2014, the Corporation transferred the Property to the Trust whose beneficiaries did not include the persons who had non-voting stock in the Corporation. The Assessor determined the transfer constituted a change of ownership from the Corporation to a separate entity, the Trust, and reassessed the Property from approximately \$5 million to \$10 million. The Trust appealed the Assessor’s change-of-ownership determination to the Assessment Appeals Board (Board).

The Board reversed the reassessment, concluding that no change in ownership occurred when the Corporation transferred the Property to the Trust. The Board reasoned that only voting stock should be considered when analyzing whether the proportional ownership interest exclusion applies under section 62(a)(2). As the Trust owned 100 percent of the voting stock of the transferor Corporation and the transferee was the Trust itself, the Board found that the transfer was excluded from reassessment under section 62(a)(2).

The Assessor filed a petition for writ of administrative mandate in the trial court and sought to vacate the Board’s

decision. The Assessor argued that principles of statutory construction require that section 62(a)(2) be interpreted to measure ownership interest using both an entity's voting and non-voting stock. The trial court agreed and granted the petition. The Trust timely appealed.

DISCUSSION

1. Standard of Review and Statutory Interpretation Principles

On appeal of a trial court's ruling on a petition for writ of administrative mandate, we review de novo issues of statutory interpretation under Code of Civil Procedure section 1094.5. (*Anserv Ins. Servs. v. Kelso* (2000) 83 Cal.App.4th 197, 204.) The general principles that guide interpretation of a statutory scheme are well-settled. (*Rudd v. California Casualty Gen. Ins. Co.* (1990) 219 Cal.App.3d 948, 952.) "Our function is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. [Citation.] To ascertain such intent, courts turn first to the words of the statute itself [citation], and seek to give the words employed by the Legislature their usual and ordinary meaning. [Citation.] When interpreting statutory language, we may neither insert language which has been omitted nor ignore language which has been inserted. [Citation.] The language must be construed in the context of the statutory framework as a whole, keeping in mind the policies and purposes of the statute [citation], and where possible the language should be read so as to conform to the spirit of the enactment. [Citation.]" (*Ibid.*)

2. Property Tax Reassessments

"In 1978 the voters adopted Proposition 13, which provides that until a change in ownership occurs real property may be taxed at no more than 1 percent of its 1975–1976 assessed value adjusted for inflation. When ownership changes, the property

may be reassessed at its current market value.” (*Pacific Southwest Realty Co. v. County of Los Angeles* (1991) 1 Cal.4th 155, 158–159 (*Pacific Southwest Realty*); *926 North Ardmore Ave., LLC v. County of Los Angeles* (2017) 3 Cal.5th 319, 326 [a “change in ownership triggers reappraisal and reassessment for property tax purposes”].) “Because Proposition 13 did not explicate the meaning of ‘change in ownership’ [citations], it fell to the Legislature to define the phrase” (*Pacific Southwest Realty, supra*, pp. 160–161.) The Legislature did so by codifying the change-in-ownership test in Revenue and Taxation Code section 60. (*Id.* at p. 161.)

Section 60 defines a “change in ownership” as “a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.” Section 62 lists various tax-exempt transfers as excluded from the definition of a change in ownership.

At issue here is section 62(a)(2) which provides that a change of ownership does not include “any transfer . . . between legal entities . . . that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred remain the same after the transfer.”

3. *Facially, the Plain Meaning of Section 62(a)(2) Proportionality is Measured by All Stock*

In challenging the trial court’s ruling, the Trust argues the plain meaning of “stock” should be disregarded. It contends “stock” in section 62(a)(2) is ambiguous and, by applying various forms of statutory construction, “stock” should be interpreted to mean only voting stock. Construed in this fashion, the

proportional ownership interests of the transferor (the Corporation) and the transferee (the Trust) remained the same after the transfer of the Property. The Trust owned all the voting stock in the Corporation and, as transferee, the Trust owned the property outright. Accordingly, the Trust argues that no change of ownership occurred when the Property was transferred, and the Property should not have been reassessed.

a. The Common Meaning of Stock

The Assessor argues that the plain meaning of “stock” as used in section 62(a)(2) includes stock of every class, not just voting stock. The parties do not dispute that the commonly accepted and ordinary meaning of the term “stock” includes both voting and non-voting stock.³

b. The Trust’s Ambiguity Argument

In arguing that “stock” in section 62(a)(2) is ambiguous, the Trust relies on the principle that clear statutory language may be “rendered ambiguous when the language is read in light of the statute as a whole or in light of the overall legislative scheme.” (*People v. Valencia* (2017) 3 Cal.5th 347, 360.) According to the Trust, section 62(a)(2)’s use of the term “stock” is ambiguous because other provisions in the “statutory scheme” use “stock” when referring to “voting stock.”

³ See entry for “Stock” in Black’s Law Dictionary (11th ed. 2019) [defining the term and listing various kinds of stock, including voting and non-voting stock; other examples include common stock, preferred stock, and treasury stock].

The Trust posits several arguments to support its claim that, as a matter of statutory interpretation, “stock” in section 62(a)(2) really means “voting stock.” We consider each.⁴

1. *“Voting Stock” in the Statutory Scheme and Elsewhere in the Revenue & Taxation Code*

Principal among the Trust’s various arguments is that section 64 and related sections of the Revenue & Taxation Code essentially use “stock” and “voting stock” interchangeably. So, the argument continues, “stock” in section 62(a)(2) means “voting stock.” A careful reading of the code sections on which the Trust relies does not show the terms are interchangeable.

The Trust’s principal focus for this argument is on two subdivisions of section 64.⁵ Subdivision (b) of section 64 (section

⁴ The trial court concluded that “stock” in section 62(a)(2) was not ambiguous but proceeded to consider the Trust’s other proposed statutory interpretation, as do we.

⁵ Section 64, subdivisions (a) through (c) provide in part, “(a) Except as provided in subdivision (i) of Section 61 and subdivisions (c) and (d) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership or limited liability company interests, shall not be deemed to constitute a transfer of the real property of the legal entity. This subdivision is applicable to the purchase or transfer of ownership interests in a partnership without regard to whether it is a continuing or a dissolved partnership.

“(b) Any corporate reorganization, where all of the corporations involved are members of an affiliated group, and that qualifies as a reorganization under section 368 of the United States Internal Revenue Code and that is accepted as a nontaxable event by similar California statutes, or any transfer of real property among members of an affiliated group, or any reorganization of

64(b)) provides that “any transfer of real property among members of an affiliated group . . . shall not be a change of ownership.” The subdivision then defines “affiliated group” as “one or more chains of corporation connected through stock

farm credit institutions pursuant to the federal Farm Credit Act of 1971 (Public Law 92-181), as amended, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

“For purposes of this subdivision, ‘affiliated group’ means one or more chains of corporations connected through stock ownership with a common parent corporation if both of the following conditions are met:

“(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations.

“(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

“(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.”

ownership with a common parent corporation if . . . (1) One hundred percent of the voting stock . . . is owned by one or more of the other corporations [and] (2) The common parent corporation owns, directly, 100 percent of the voting stock. . . .” (§ 64(b) (emphasis added).) The Trust argues that the “term ‘stock’ in the first sentence here means voting stock, as the two numbered sentences make clear.”⁶ We do not read it that way. Rather, giving these words their “usual and ordinary” meaning as we must (see *In re Alpine* (1928) 203 Cal. 731, 736–737), this sentence is explained as follows: The Legislature has used a general term (stock) to explain the basic corporate relationship with the parent (e.g. not a partnership), followed by a more specific term (voting stock) to measure which type of stock qualifies for the exclusion. (See *Marshall v. Pasadena Unified School Dist.* (2004) 119 Cal.App.4th 1241, 1254.) In this context, voting stock is one of many classes of stock and is the one class that matters under section 64. It does not follow that “stock” means “voting stock” in section 62(a)(2).

The Trust also cites to subdivision (c)(1) of section 64 (section 64(c)(1)), which provides that “When a corporation . . . obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of any corporation . . . the purchase or transfer of that stock or other interest shall be a change of ownership” (Emphasis added.) The Trust argues that “voting stock” and “stock” are used interchangeably here. We see it differently—the use of the word “that” shows that the

⁶ By “first sentence here,” we understand the Trust to mean “one or more chains of corporation connected through stock ownership with a common parent corporation.”

Legislature was referring to the prior use of “voting stock” in the sentence, using “that” in a grammatically correct manner.

Nor do we find the different uses of “voting stock” in other parts of the Revenue and Taxation Code to mean that “stock” in section 62(a)(2) is “voting stock.” Each of the Code provisions cited by the Trust uses the specific term “voting stock,” not the more general term “stock.” This shows the Legislature knew how to refer to “voting stock” when defining “ownership interests,” and deliberately chose a different test for section 62(a)(2) than for other types of transfers. (See § 64(c) [transfer of ownership interest in a legal entity], § 64(b) [transfer of real property among subsidiaries]; § 62.1 [transfer of mobile home park to nonprofit, stock cooperative, limited equity stock cooperative or other entity formed by tenants]; § 62.5 [transfer of floating home marina to nonprofit, stock cooperative, limited equity stock cooperative or other entity formed by tenants]).

The Trust’s argument would carry more weight if the Code used “stock” infrequently, but “stock” is used repeatedly in the Code.⁷ That the Legislature regularly uses both “stock” and “voting stock” in various parts of the Code undermines the Trust’s argument that in section 62(a)(2), “stock” was only a stray misnomer of “voting stock.” To adopt the Trust’s argument would suggest that these terms are interchangeable throughout the Code, and would make “stock” or “voting stock” at times superfluous. (See *Wells v. One2One Learning Foundation* (2006))

⁷ Numerous provisions in the Code use the term “stock” (§§ 23361, 23804, 250105) while others use the term “voting stock” (§§ 62.1, 62.5, 2188.10). A search of the Code reveals that “stock” is used much more frequently than “voting stock.”

39 Cal.4th 1164, 1207 [“interpretations which render any part of a statute superfluous are to be avoided”].)⁸

2. “Voting Stock” in Property Tax Rule 462.240

The Trust also cites Property Tax Rule 462.240, subdivision (d) to support its “stock” means “voting stock” argument.⁹ As it did with section 64, the Trust again points out the regulation uses “stock” and “voting stock” in the same sentence. (Cal. Code Regs., tit. 18, § 462.240.) Under this regulation, an employee benefit plan’s acquisition “of the stock of the employer corporation pursuant to which the employee benefit plan obtains . . . more than 50 percent of the voting stock” (emphasis added) of the corporation is not a change in ownership. This use of the two terms neither creates ambiguity nor proves that the words are equivalents. As in section 64, subdivision (b), the regulation employs a general term (stock) to describe a transaction that

⁸ Quite the contrary, section 23361 subdivision (a), for example, expressly distinguishes “stock” and “voting stock” in the statute’s last sentence: “*Except in paragraph (c), ‘stock’ does not include nonvoting stock which is limited and preferred as to dividends.*” (Emphasis added.) Stock has one meaning in paragraphs (a) and (b) and a different one in paragraph (c).

⁹ The regulations set forth in California Code of Regulations, title 18 are referred to as “property tax rules.” (*Phillips Petroleum Co. v. County of Lake* (1993) 15 Cal.App.4th 180, 189, fn. 7; *CAT Partnership v. County of Santa Cruz* (1998) 63 Cal.App.4th 1071, 1077, fn. 4.) The rules of this subchapter “govern assessors when assessing, county boards of equalizations and assessment appeals boards when equalizing, and the State Board of Equalization, including all divisions of the property tax department.” (Cal. Code Regs., tit. 18, § 1.)

involves stock acquisition, and then employs a different and more specific term (voting stock) to measure what type of stock transaction results in a change of ownership. We reject the Trust’s argument by applying one of the common statutory construction principles – the use of two different terms in a statute indicates a legislative intent to distinguish between the terms. (See *Campbell v. Zolin* (1995) 33 Cal.App.4th 489, 497 [“ordinarily, where the Legislature uses a different word or phrase in one part of a statute than it does in other sections or in a similar statute concerning a related subject, it must be presumed that the Legislature intended a different meaning.”].)¹⁰

c. The State Board of Equalization’s Ambiguity Argument

Lastly, the Trust adopts the argument of amicus the State Board of Equalization that the term “stock” is ambiguous because there are many subcategories of stock. But the fact that there are subcategories of a general term does not show ambiguity; rather it confirms that the general term includes all the subcategories. The Code expressly identifies numerous subcategories of stock: voting stock (§ 64), non-voting stock (§ 23361), capital stock (§ 212), treasury stock (§ 24942), common stock (§ 23040.1), preferred stock (§ 23040.1), and qualified small

¹⁰ The parties and amici have directed our attention to several extrinsic sources such as the Assessor’s Handbook, Letters to the Assessor, and legal opinions of the State Board of Equalization. We agree with the trial court that these materials are not particularly helpful. None of the examples cited in these materials addresses the situation in which both voting and non-voting stock are at play in determining ownership under section 62(a)(2).

business stock (§ 18038.4). The statutory references to these various classes of stock reaffirms our interpretation of “stock” in section 62(a)(2) as meaning all classes of stock, not just voting stock. ¹¹

¹¹ The dissent expresses concern that our holding will open the “door to a patchwork, county-by-county system of differing assessment practices that is the opposite of what the Legislature intended.” (Dis. Opn., p. 3) To avoid that result, the dissent suggests that this court should interpret Tax and Revenue Code, section 62(a)(2) consistent with the construction given by State Board of Equalization (“Board”). The Board is charged with preparing and issuing “instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation.” (Gov. Code, § 15606, subd. (e).) The Board filed an amicus brief and stated that it interpreted “stock” in Tax and Revenue Code section 62(a)(2) as meaning voting stock. The California Assessors Association, a statewide association for assessors representing each of California’s 58 counties, also filed an amicus brief, taking the contrary position, namely that “stock” means all stock. Ultimately, it is this court’s task to interpret the statute. “Courts must, in short, independently judge the text of the statute, taking into account and respecting the agency’s interpretation of its meaning, of course, whether embodied in a formal rule or less formal representation. Where the meaning and legal effect of a statute is the issue, an agency’s interpretation is one among several tools available to the court. Depending on the context, it may be helpful, enlightening, even convincing. It may sometimes be of little worth.” (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7–8.)

It remains to be seen whether our holding prompts the adoption of practices that avoid the dissent’s concern about patchwork interpretation of section 62(a)(2). If not, or for other reasons, the Legislature may step in.

4. The Trust's Reliance on Section 64 Is Substantively Misplaced

Implicit in many of the Trust's arguments is that sections 62 and 64 must be read together because they cover the same subject. That assumption does not hold up. The two statutes address two different kinds of transactions: the former deals with the actual transfer of real property from one entity to another; the later deals with a change of ownership of the legal entity (a corporation) that owns real property. Because the two sections deal with different methods of changing property ownership, section 64's rules relating to control of a corporation do not fit in the proportionality exclusion under section 62(a)(2).

This point is illustrated in section 64, subdivision (c)(1). When an entity obtains control of a corporation through its "ownership or control of more than 50 percent of the voting stock of [the] corporation," (section 64(c)(1)), the new configuration of the corporation becomes a transferee owner of the corporate real property for reassessment purposes. The 50 percent demarcation apparently represents a legislative policy that, because shares of corporations are regularly traded, sales of less than 50 percent of the voting stock are legally not significant to justify reassessment.

The Trust's argument that the Legislature meant "voting stock" when it used "stock" in section 62 similar to section 64 ignores that section 62 does not address sales of corporate stock at all, but transfers of real property from one entity to another. Nothing in the record suggests that intrinsic in the nature of corporations is that voting stock must be the sole measure of transfers from a corporation to another form of ownership. Section 62(a)(2) looks at the proportional interests in real property of owners of the transferor and transferee entities, not a

change in stock ownership.¹² The Legislature reasonably could use stock or voting stock or other standards as its section 62(a)(2) reassessment yardstick. It chose for corporations “stock,” even though, as we have seen, voting stock is used in other situations covered by the Revenue and Taxation Code.

In the present case, the proportional ownership interests were not aligned before and after transfer. Before the transfer, the corporation had at least five stockholders, namely several individuals and the Trust, all five having economic interests in the Property held by the corporation. After the transfer, the Trust owned the Property, and the individuals no longer had any ownership interest in the Property. The proportional ownership interests of the transferor and transferee were different.

5. *The “Primary Economic Value” test in Section 60 also Supports that all Stock Is Considered in Applying Section 62(a)(2)*

Finally, the Assessor correctly observes that section 62(a)(2) must be read in light of section 60, which provides, “A ‘change in ownership’ means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.”

Under section 60, there is a change in ownership of real property when there is “(1) a transfer of a present interest in real property, (2) including the beneficial use thereof, (3) the value of which is substantially equal to the value of the fee interest.” (*Pacific Southwest Realty, supra*, 1 Cal.4th at p. 162.) As explained by the *Pacific Southwest Realty* court, the “Legislature intended to find a change in ownership when the primary

¹² Section 64 does not use the “proportional ownership interests” standard.

economic value of the land is transferred from one person or entity to another.” (*Id.* at p. 167.)

The “beneficial use” inquiry in whether or not there has been a change of ownership under section 60 asks who has an economic interest in a parcel of real estate, not the nature of the ownership interests in the entity that owns the real property. Here, the Corporation’s Articles of Incorporation state, “[E]xcept with respect to all voting rights being vested exclusively in the holder of the Voting Common Shares, as herein provided, the Voting Common Stock and the Nonvoting Common Stock shall be equal in all other respects including but not limited to, dividend and liquidation rights.” By express provision, at a minimum both voting and non-voting stockholders had “dividend and liquidation” rights, meaning both had economic interests in the Corporation.¹³ After the transfer, non-voting stockholders had no interest in the Trust and had lost their previous economic interest in the real property. The economic value of the properties had been transferred from the non-voting stockholders to the voting stockholders, resulting in a change in ownership under section 60 and one not excluded under section 62(a)(2).

¹³ The trial court also found that non-voting stockholders had economic interests in the Corporation. “The non-voting shareholders own between .09% and 1.7% of the [Corporation’s] stock. The Assessor appraised the Property at \$10,280,000. It is not inconceivable that, upon liquidation of the [Corporation], a 1/7% [*sic*] shareholder may receive a significant portion of this amount.” Using the trial court’s findings, the non-voting stockholders would be entitled to between \$92,520 and \$174,760 if the Corporation had sold the property.

DISPOSITION

The judgment is affirmed. Each party is to bear its own costs on appeal.



RUBIN, P. J.

I CONCUR:



MOOR, J.

Jeffrey Prang, as County Assessor, etc. v. Luis Amen, as Trustee,
etc. et al.

B298794

BAKER, J., Dissenting

Resolving an issue of statewide importance, the majority opinion authorizes the Assessor in Los Angeles County to reassess real property in a manner inconsistent with the considered legal view of the State Board of Equalization (the Board)—the entity responsible for promulgating property tax assessment regulations and for instructing county assessors on correct property tax assessment methods. (Gov. Code, § 15606, subd. (c); see also Gov. Code, § 15606, subd. (e) [directing the Board to “[p]repare and issue instructions to assessors designed to promote uniformity throughout the state and its local taxing jurisdictions in the assessment of property for the purposes of taxation”].) As a matter of statutory interpretation and of implementing agency deference (*Steinhart v. County of Los Angeles* (2010) 47 Cal.4th 1298, 1322; *Hoechst Celanese Corp. v. Franchise Tax Bd.* (2001) 25 Cal.4th 508, 524-525; *SHC Half Moon Bay, LLC v. County of San Mateo* (2014) 226 Cal.App.4th 471, 485), the majority opinion reaches the wrong result.

In regulations interpreting related statutes (see, e.g., Rev. & Tax. Code, § 64, subd. (d); Cal. Code Regs., tit. 18, § 462.180) and in guidance issued to county assessors that discusses Revenue and Taxation Code section 62, subdivision (a)(2) (Section 62(a)(2)), the Board has interpreted the term “stock” to mean

voting stock. That interpretation should be given great weight, and I see no good reason to deviate from it. As the Board persuasively explains in the amicus briefing this court invited, its interpretation of “stock” harmonizes Section 62(a)(2) with pertinent portions of the statutory scheme implementing Proposition 13. As the Board elaborates: “If Section 62(a)(2) means ‘all stock,’ the exclusion under Section 62(a)(2) would be measured under one standard—all stock—but under a different standard—voting stock—to measure when the exclusion ends under [Revenue and Taxation Code] Section 64(d).” Reading “stock” in Section 62(a)(2) to mean voting stock also avoids significant administrative difficulties because, as the Board again explains, “evaluat[ing] the proportional ownership interests of voting stock is relatively straightforward and readily ascertainable” while “[a]ssessing whether or not the ‘proportional ownership interests of the transferors and transferees’ remained the same [for all stock shares] would necessitate an evaluation of all the different classes and types of stock and their attendant rights, having to assign what may amount to random percentages of ownership to particular classes of stock since . . . owners of corporations have no specific right to any corporate real property.”

The majority’s oversimplified interpretive approach (the statute just says “stock,” so that means any sort of stock) fails to harmonize the statutory scheme, and that is an analytical flaw. Analytical vulnerabilities, however, are the least of the opinion’s problems; the deleterious practical consequences of today’s holding are the real concern. The Legislature has stated a preference for uniformity in the administration of property tax assessment practices throughout the state—with the Board

specifically charged with achieving that end. (Gov. Code, § 15606, subd. (e).) The majority nonetheless permits the Los Angeles County Assessor to disregard the Board's instructions and expertise, thereby opening the door to a patchwork, county-by-county system of differing reassessment methods that is the opposite of what the Legislature intended. Not only that, decisions about how to structure an untold number of property transactions and legal entity relationships in Los Angeles County have almost certainly been informed by the Board's longstanding guidance regarding Section 62(a)(2) and related statutes. The majority upends these reliance interests with unpredictable and, at least in some cases, unfair consequences.

Let us therefore hope today's decision is not the last word on the meaning of Section 62(a)(2). For now, I respectfully dissent.


BAKER, J.

EXHIBIT B

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION FIVE

**JEFFREY PRANG, Los Angeles
County Assessor,**

Petitioner and Respondent,

v.

**AMEN FAMILY 1990 REVOCABLE
TRUST,**

Real Party in Interest.

Case No. B298794

Los Angeles County Superior Court, Case No. BS173698
The Honorable James C. Chalfant, Judge

**BRIEF OF AMICUS CURIAE CALIFORNIA
STATE BOARD OF EQUALIZATION**

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**INTERESTS OF AMICUS CURIAE
CALIFORNIA STATE BOARD OF EQUALIZATION**

The California State Board of Equalization (BOE) is charged with promulgating regulations related to property tax assessment, and it acts in an oversight capacity to instruct county assessors in the administration of property tax laws. (Gov. Code, § 15606, subds. (c), (e).) As part of its oversight function, BOE also promulgates regulations, develops property tax assessment policies, and prepares and issues instructions to guide county assessors and local assessment appeals boards, so as to promote uniformity in tax assessment policies throughout the state. (Gov. Code, § 15606, subd. (e).)

Accordingly, and in response to this Court’s May 21, 2020 invitation, BOE respectfully submits this amicus curiae brief.¹ This brief discusses the administration of the property tax laws, including Revenue and Taxation Code section 62, subdivision (a)(2) (Section 62(a)(2)), based on BOE’s historical knowledge and cumulative experience.²

INTRODUCTION AND SUMMARY OF POSITION

Section 62(a)(2) excludes transfers that result “solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and

¹ No party nor counsel for any party in the pending case authored any portion of the amicus curiae brief or contributed financially to the preparation of the brief.

² Unless otherwise specified, all further statutory references are to the Revenue and Taxation Code.

transferees, whether represented by stock, partnership interest, or otherwise, . . . remain the same after the transfer,” from changes in ownership triggering reassessment for property tax purposes. (§ 62, subd. (a)(2).) Because the term “stock” is subject to many different meanings and not defined by the relevant statutory scheme, it is ambiguous, and the Court may properly look to external sources to determine its meaning.

BOE has consistently interpreted the term “stock” in Section 62(a)(2) as meaning “voting stock.” BOE’s contemporaneous rules interpreting related statutes and the guidance it issues, including the Assessors’ Handbook, evidence BOE’s consistent interpretation of Section 62(a)(2). Section 64, subdivision (d) (Section 64(d)) is a companion statute, triggering reassessment when a transfer is excluded under Section 62(a)(2) but the “original co-owners” later transfer 50 percent of their “shares.” (§ 64, subd. (d).) BOE has promulgated regulations clarifying that the term “shares” in Section 64(d) means “voting shares,” and the Assessors’ Handbook similarly demonstrates BOE’s interpretation that “stock” in Section 62(a)(2) means “voting stock.” Reading the statutory scheme implementing Proposition 13 as a whole, “stock” in Section 62(a)(2) should be interpreted to mean “voting stock.” Interpreting “stock” in Section 62(a)(2) to include non-voting stock would render the statutes inconsistent, and lead to problems in administering the statutory scheme and create opportunities for gamesmanship to avoid reassessment.

LEGAL BACKGROUND

I. STATUTES RELATING TO LEGAL ENTITY CHANGE IN OWNERSHIP

Proposition 13, which California voters passed in 1978, added article XIII A to the California Constitution. (See *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 218 [upholding constitutionality of Proposition 13].) Article XIII A limits the amount of ad valorem tax that may be assessed on real property unless property is purchased, newly constructed, or there is a “change in ownership.” (Cal. Const., art. XIII A, § 2.) These terms are defined elsewhere. As our State Supreme Court has recognized, the implementation of article XIII A, and resolution of certain ambiguities therein, has “depended upon the contemporaneous construction of the Legislature or of the administrative agencies charged with implementing the new enactment.” (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization, supra*, 22 Cal.3d at p. 245.)

Division 1, part 0.5 of the Code implements article XIII A. (§§ 50 et seq.) There, the Legislature defined “change in ownership,” in part by providing examples of what is and is not a change in ownership. (See §§ 60 et seq.; see also *Pacific Southwest Realty Co. v. Cnty. of Los Angeles* (1991) 1 Cal.4th 155, 160-161 [noting, “[b]ecause Proposition 13 did not explicate the meaning of ‘change in ownership’ . . . it fell to the Legislature to define the phrase.” [internal citations omitted].])

A “change in ownership” is defined as a “transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.” (§ 60.) Accordingly, either a transfer of real property or a transfer of an interest in the legal entity owning the property may trigger a change in ownership. Yet ordinarily, “the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership or limited liability company interests,” do not trigger a change in ownership, and thus do not trigger a reassessment, unless they fall into certain exceptions. (§ 64, subd. (a).)

One such exception triggering reassessment of real property is when the transfer of an ownership interest in a legal entity holding an interest in real property results in a change in control of that entity. (§ 64, subd. (c)(1).) This change in control is measured by the ownership of voting stock. (*Ibid.*) Specifically, section 64, subdivision (c)(1) provides when “control through direct or indirect ownership or control of more than 50 percent of the *voting stock* of any corporation,” 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.” (*Ibid.* [italics added].)

Another exception triggering reassessment is the transfer of more than 50 percent of the “original co-owner” shares. (§ 64, subd. (d).) Pursuant to Section 62(a)(2), a change in ownership does not include,

Any transfer between an individual or individuals and a legal entity or between legal entities, . . . that

results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, . . . remain the same after the transfer....

(§ 62, subd. (a)(2).) When Section 62(a)(2) operates to exclude such a transfer from a change in ownership triggering reassessment, those who hold ownership interests in the legal entity immediately after the transfer are considered “original co-owners.” (§ 64, subd. (d).)³ Section 64(d), however, provides for a reappraisal when the original co-owners transfer more than 50 percent of their total interests. It provides:

Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property that was previously excluded from change in ownership under [Section 62(a)(2)] shall be reappraised.

(§ 64, subd. (d).) Therefore, when a transfer is excluded from change in ownership under Section 62(a)(2), the property will nevertheless be reappraised pursuant to Section 64(d) upon a transfer of more than 50 percent of the total shares owned by the original co-owners. (§ 64, subd. (d).)

The Legislature enacted Sections 62(a)(2) and 64(d) in 1980, and the statutes became operative in 1981. (Assem. Bill No. 2777

³ By statute, original co-owner status is created only if the excluded transfer occurs on or after March 1, 1975.

(1979-1980 Reg. Sess.) §§ 1-2; Stats. 1980, ch. 1349.)⁴ The Legislature did not enact statutory definitions of the terms “stock,” or “partnership interest,” as contained in Section 62(a)(2), or “shares,” or “other ownership interests” as contained in Section 64(d).

II. BOE’S REGULATIONS AND GUIDANCE

A. BOE’s Contemporaneous Regulations Clarify “Shares” in Section 64(d) Means Voting Shares

BOE is authorized to prescribe rules and regulations to govern local boards of equalization when equalizing and assessors when assessing. (Gov. Code, § 15606, subd. (c).) Contemporaneously with the statutory enactments, BOE promulgated Property Tax Rule 462, clarifying the property tax and reassessment laws as they relate to legal entity change in ownership. (Cal. Code Regs., tit. 18, § (Regulation) 462.180, former Regulation § 462; see also BOE Letter to Assessors No. 81/91, Aug. 7, 1981; Gov. Code, § 15606, subd. (c).)⁵ As relevant here, the rules clarified the word “shares” in Section 64(d) means “voting shares,” and the phrase “other ownership interests” means capital and profits interests for partnerships and limited

⁴ The language of Section 62(a)(2) was originally included in section 62, subdivision (a). In 1983, section 62, subdivision (a) was separated into two subdivisions, (a)(1) and (a)(2), with no change to the language. (See Stats. 1982, ch. 1465.)

⁵ Unless otherwise specified, all further references to Rules or Regulations are to title 18 of the California Code of Regulations.

liability companies. (Regulation 462.180, subd. (d)(2), former tit. 18, § 462, subd. (j)(4)(B).)

Former Rule 462(j)(4)(B) explained Section 64(d) applies when “the ‘original coowners’ subsequently transfer, in one or more transactions, more than 50 percent of the total control or ownership interests in the entity as defined in (4)(A).” Rule 462(j)(4)(A)(i), in turn, provided a change in ownership occurs “[w]hen any corporation, partnership, other legal entity or any person obtains direct or indirect ownership or control of more than 50 percent of the *voting stock* in any corporation which is not a member of the same affiliated group of corporations” and 462(j)(4)(A)(ii) provided a change in ownership occurs when control of a partnership or LLC is obtained through “direct or indirect ownership of more than 50 percent of the total interest in partnership or LLC *capital* and more than 50 percent of the total interest in partnership or LLC *profits*” (italics added). While Rule 462 has been renumbered, and is now contained within Regulation 462.180, the clarification of “shares” as meaning *voting* shares and “ownership interests” in partnerships and limited liability companies means a capital and profits interest remains unchanged. (Regulation 462.180, subd. (d)(2).)

These rules were subject to public comment and discussion as part of the required rulemaking process under the Administrative Procedure Act. (See, e.g., Gov. Code, §§ 11346.2, 11346.45 [notification and public discussion process]; see also BOE Letter to Assessors 81/22, Feb. 11, 1981.) The Final Statement of Reasons does not reflect any opposition to the use of

the terms “voting stock” (Rule 462, Final Statement of Reasons, § IV, at p. 7) and, except for this action, BOE is not aware of any dispute over this language since adopting the legal entity change in ownership rules in 1981.

B. In the Assessors’ Handbook and Other Guidance, BOE Consistently Interprets “Stock” in Section 62(a)(2) to Mean Voting Stock

While BOE has not promulgated any regulations clarifying the meaning of “stock” in Section 62(a)(2), it has also consistently interpreted “stock” in Section 62(a)(2) to mean voting stock. In administering property taxes, BOE issues instructions and guidance to assessors to promote uniformity in property taxation throughout the state. (Gov. Code, § 15606, subd. (e).) The Assessors’ Handbook is among the guidance issued.

Chapter 401 of the Assessors’ Handbook, entitled Change in Ownership, provides in pertinent part that “[f]or change in ownership purposes, ownership in a corporation is determined by the percentage of ownership or control of a corporation’s *voting stock*.” (BOE, Assessors’ Handbook (2010, reprinted 2015) Ch. 401, Change in Ownership, p. 38 [italics added] (AH-401).) “*Control* of a corporation exists when one entity or person has direct or indirect ownership or control of more than 50 percent of the voting stock of the corporation.” (*Id.* at p. 42 [italics in original].) And, as it relates to the application of Sections 64(d) and 62(a)(2), the Assessors’ Handbook consistently provides guidance to analyze change in ownership of real property held by legal entities based on “voting stock.” (See AH-401, at pp. 42, 49,

50, Examples 6-10, 6-11, 6-12 [all relating to transfers of “voting stock”].)

Similarly, BOE has issued legal opinions evaluating Section 62(a)(2) based on changes to “voting stock.” (See BOE Request for Legal Opinion, No. 09-126, Oct. 30, 2009 [BOE legal opinion No. 09-126], at p. 4; BOE Legal Opinion, *Re: Change in Ownership – Transfer from Revocable Trust to Corporation*, May 31, 2007 [BOE legal opinion, May 31, 2007], at p. 3.)

ARGUMENT

I. UNDER THE RULES OF STATUTORY CONSTRUCTION, “STOCK” IN SECTION 62(A)(2) IS PROPERLY INTERPRETED AS VOTING STOCK

A. Courts May Properly Look to External Sources When Statutory Language is Ambiguous

Like other statutes, when interpreting tax statutes, the court must begin with the text of the relevant provisions. (*Microsoft Corp. v. Franchise Tax Bd.* (2006) 39 Cal.4th at 750, 758 (*Microsoft Corp.*)) “If the text is unambiguous and provides a clear answer, [the court] need go no further.” (*Ibid.*) However, “[i]f the language supports multiple readings, [the court] may consult extrinsic sources, including but not limited to the legislative history and administrative interpretations of the language.” (*Ibid.*)

While courts ultimately construe taxing statutes, great weight and respect is accorded to the administrative construction of the statutes. (*Hoechst Celanese Corp. v. Franchise Tax Bd.* (2001) 25 Cal.4th 508, 524-525.) And where the Legislature has

adopted a uniform act, as in tax statutes, “the history behind the creation and adoption of that act is also relevant.” (*Microsoft Corp.*, *supra*, 39 Cal.4th at p. 758.) Statutes must be construed in context, and provisions relating to the same subject matter must be harmonized to the extent possible so as not to produce absurd results. (*Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735; *In re Catalano* (1981) 29 Cal.3d 1, 11; see also *Taiheiyo Cement U.S.A., Inc. v. Franchise Tax Bd.* (2012) 204 Cal.App.4th 254, 259-260 (*Taiheiyo Cement U.S.A., Inc.*).

B. The Term “Stock,” as Used in Section 62(a)(2), Is Ambiguous

Stock is not defined in the statutes implementing Proposition 13. Black’s Law Dictionary provides four definitions for stock, including “[t]he capital or principal fund raised by a corporation through subscribers’ contributions or the sale of shares,” and “[a] proportional part of a corporation’s capital represented by the number of equal units (or shares) owned, and granting the holder the right to participate in the company’s general management and to share in its net profits or earnings.” (Black’s Law Dictionary (11th ed. 2019), available at Westlaw.) It also includes entries for more than seventy particularized types of “stock.” (*Id.*)

The Corporations Code confirms myriad types of shares, and that the attendant rights of any type of stock may depend on the specific terms of the corporation’s articles. For example, it authorizes the issuance of “one or more classes or series of shares, or both, with full, limited or no voting rights and with such other rights, preferences, privileges and restrictions as are stated or

authorized in [the corporation’s] articles.” (Corp. Code, § 400.) The Corporations Code defines “shares” to mean “the units into which the proprietary interest in a corporation are divided in the articles.” (Corp. Code, § 184.)

Accordingly, there is no plain meaning of the term “stock,” as contained in Section 62(a)(2), and this Court may properly rely on external sources to interpret the statute.⁶ (*Microsoft Corp.*, *supra*, 39 Cal.4th at pp. 750, 758.)

C. BOE’s Consistent and Longstanding Administrative Interpretation Is That “Stock” in Section 62(a)(2) Means “Voting Stock”

An administrative agency’s quasi-legislative rules, such as regulations enacted pursuant to powers delegated by the Legislature, have the “dignity of statutes.” (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 10 [internal quotations omitted] (*Yamaha*)). The “contemporaneous construction of a statute by an administrative agency charged with its enforcement,” is “entitled to great weight.” (*Western Oil & Gas Assn. v. Air Resources Board* (1984) 37 Cal.3d 502, 520.) Here, BOE’s regulations interpreting Section 64(d), which the Legislature enacted simultaneously to and as part of the same statutory scheme as Section 62(a)(2), provide that property is

⁶ There is, in fact, no plain meaning of any of the words in Section 62(a)(2) used to describe how ownership interests may be represented (i.e., “stock, partnership interest, or otherwise”). The word “partnership interest,” is subject to multiple meanings and the word “otherwise” inherently needs definition. This lends weight to the necessity of administrative regulations to clarify these terms as described in part I(C), *supra*.

reassessed when the original co-owners transfer more than 50 percent of their *voting* shares. (Regulation 462.180, subd. (d)(2).)

The exclusion in Section 62(a)(2) should likewise apply when there is no change in the proportional ownership interest as measured by *voting* stock, and BOE has consistently interpreted it as such, as evidenced by its Assessors' Handbook.⁷ "Because part of [BOE's] function is to assess the tax consequences resulting from the myriad ways in which property may be held, it has practical expertise [a court] may lack." (*Reilly v. City and County of San Francisco* (2006) 142 Cal.App.4th 480, 491 (*Reilly*)). Accordingly, "[w]ith its expertise and background, [BOE] is positioned to establish consistent rules regarding change in ownership." (*Ibid.*) Therefore, while the Assessors' Handbook is not a regulation and does not possess the force of law, it "ha[s] been relied upon and accorded great weight [by the Courts] in interpreting valuation questions." (*SHC Half Moon Bay, LLC v. County of San Mateo* (2014) 226 Cal.App.4th 471, 485.)

While the examples in the Assessors' Handbook do not directly address whether "stock" in Section 62(a)(2) means all stock or voting stock, the Assessors' Handbook demonstrates the consistent reliance on *voting* stock as the determinative factor in

⁷ It bears noting that BOE has also provided consistent interpretation of "partnership interest" to mean a capital and profits interest in the partnership regardless of whether the interests are limited or general partnership interests, and has given as an example of another type of legal entity and its ownership representation, limited liability companies with ownership measured by capital and profits interest and not, for example, managing interests.

ascertaining whether a change in ownership of a corporation has occurred, and the lack of controversy over this interpretation. (AH-401, at pp. 38, 49, 50, Examples 6-10, 6-11, 6-12.) It evidences BOE’s interpretation that the exclusion under Section 62(a)(2) applies when the proportional ownership interests, as measured by voting stock, remain unchanged.

Moreover, while BOE’s legal opinions similarly do not have force of law, they confirm the consistency of BOE’s interpretation. (See *Yamaha, supra*, 19 Cal.4th at p. 20 [noting “[a]nother important factor,” in assessing the weight of administrative interpretations is whether it is “consistent and longstanding”].) For example, a 2007 legal opinion letter, annotated as Annotation⁸ 220.0267, responds to a question regarding whether a transfer from a husband and wife’s revocable trust to a corporation qualified for the Section 62(a)(2) exclusion, in part, by stating, “if husband and wife can establish by clear and convincing evidence that their *voting* shares in the corporation are held as community property, the proportional transfer

⁸ “Annotations” are summaries of conclusions reached in selected rulings of legal counsel posted on the Board’s website. A “legal ruling of counsel” means a legal opinion written and signed by the Chief Counsel or an attorney who is the Chief Counsel’s designee, addressing a specific tax application inquiry from a taxpayer or taxpayer representative, a local government agency, or board staff. To qualify to be annotated, a legal ruling of counsel must include the following elements: (1) A summary of pertinent facts; (2) An analysis of the issue(s); (3) References to any applicable statutes, regulations, or case law; and (4) A conclusion supported by the analysis of the issue(s). (Regulation § 5700.)

exclusion of [Section 62(a)(2)] would apply.” (BOE legal opinion, May 31, 2007, at p. 3 [italics added].) Also, in 2009, analyzing a transfer under section 61, subdivision (j), BOE issued an opinion letter stating “for the exclusion of [Section 62(a)(2)] to apply, ... the shareholders’ interest as represented by their *voting* stock must have been the same”) (BOE legal opinion No. 09-126, at p. 4 [italics added], annotated as Annotation 220.0067.)

In all instances, BOE’s guidance reflects its interpretation that Section 62(a)(2) should be analyzed by considering whether the proportionality of voting stock remains the same.

II. INTERPRETING THE TERM “STOCK” AS VOTING STOCK HARMONIZES THE STATUTORY SCHEME AND ALLOWS FOR EFFECTIVE ADMINISTRATION OF PROPOSITION 13

Statutes must be read in context so as to harmonize the statutory scheme. (*Lungren v. Deukmejian, supra*, 45 Cal.3d at p. 735; *Taiheiyo Cement U.S.A., Inc., supra*, 204 Cal.App.4th at pp. 259-260.) Here, interpreting “stock” in Section 62(a)(2) to mean voting stock is consistent with the statutory scheme implementing Proposition 13.

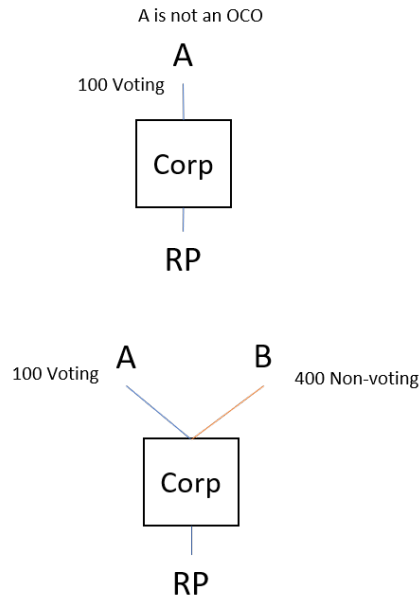
First, as set forth above, Section 64(d) provides for reassessment when 50 percent of the original co-owner shares are transferred. If Section 62(a)(2) means “all stock,” the exclusion under Section 62(a)(2) would be measured under one standard – all stock – but under a different standard – voting stock – to measure when the exclusion ends under Section 64(d).

Second, ordinarily, the transfer of corporate stock is not a change in ownership unless the transfer results in a change in control. (§ 64, subs. (a), (c)(1).) A change in control is measured

by “voting stock” and interpreting Section 62(a)(2) to only exclude transfers when the proportional ownership interest, as measured by voting stock remains the same, makes the statutes governing change in ownership of real property held by legal entities consistent and coherent, particularly since the proportional ownership interest exclusion for transfers of real property as described in Section 62(a)(2) and Rule 462.180(b) is made applicable also to transfers of legal entity interests by Rule 462.180(d)(4).

Moreover, interpreting “stock” in Section 62(a)(2) as “all stock” would hinder efforts to administer the statute. Assessing whether or not the “proportional ownership interests of the transferors and transferees” remained the same would necessitate an evaluation of all the different classes and types of stock and their attendant rights, having to assign what may amount to random percentages of ownership to particular classes of stock since, as entities with separate legal existence from its owners, owners of corporations have no specific right to any corporate real property. (See, e.g., *Dole Food Co. v. Patrickson* (2003) 538 US 468, 474 [“the corporation and its shareholders are distinct entities”]; *Grosset v. Wenaas* (2008) 42 Cal.4th 1100, 1108 [“fundamental” that a corporation is legal entity distinct from its shareholders]; Corp. Code, §§ 184, 400 [defining attendant rights in different classes of shares as those set forth in the articles].) In contrast, evaluation of the proportional ownership interests of voting stock is relatively straightforward and readily ascertainable.

Additionally, if “stock” in Section 62(a)(2) were interpreted to mean “all stock,” a legal entity could engineer a transfer of real property without any reassessment.⁹ This is best demonstrated by example, as illustrated below:

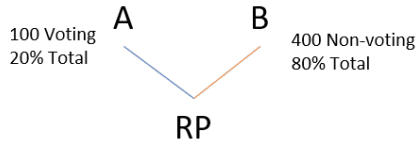


Step 1 – Corp creates and B purchases 400 non-voting shares in Corp

1. Under 64(a), no change in ownership of RP since RP was not transferred
2. Under 64(c)(1), no change in control of Corp since A retains 100 percent of the voting stock

⁹ In its Reply Brief, Respondent gives two examples purportedly leading to “absurd results” if “stock” in Section 62(a)(2) means voting stock. (Respondent’s Reply Brief, at pp. 24-27.) However, the change in ownership consequence in each example is incorrectly analyzed. In the first example, there is no change in ownership of the property because there is only a single class of stock, none of which transfers. In the second example, there is a change in ownership because ownership of a limited liability company is properly measured by capital and profits, not managing control. (See Annotation 220.0375.)

Step 2 – Transfer of RP to A & B



1. If “stock” means “all stock,” transfer qualifies for Section 62(a)(2), as follows:
 - Proportional ownership of RP *before* transfer: A-20% (through ownership of 100 shares of all Corp stock), B-80% (through 400 shares of all Corp stock)*
 - Proportional ownership of RP *after* transfer: A-20%, B-80%

2. If “stock” means “voting stock,” transfer **does not** qualify for Section 62(a)(2), as follows:
 - Proportional ownership of RP *before* transfer: A-100% (through ownership of 100 shares of all Corp voting stock), B-0% (owns no Corp voting stock)
 - Proportional ownership of RP *after* transfer: A-20%, B-80%

*This assumes that ownership in RP is represented equally by voting and non-voting Corp shares. That, however, need not be the case.

In this example, a corporation (Corp) has 100 shares of voting stock, which are owned entirely by party A (A), and Corp owns real property (RP). If Corp desires to transfer an 80 percent interest in its real property to another party (B) without triggering reassessment, it could first create, and then sell to B, 400 shares of non-voting stock.¹⁰ When B purchases the non-voting stock, it will not be a change in ownership (CIO) of the real property transferred because, under section 64, subdivisions (a) and (c)(1), the purchase of ownership interests in a corporation is ordinarily not a change in ownership in real property owned by the corporation, unless there is a change in control (CIC). (§ 64, subds. (a), (c)(1).) Change in control is measured by direct or

¹⁰ This example assumes Corp is not an original co-owner (OCO). If Corp were an original co-owner, the transaction would have to be separately analyzed under Section 64(d).

indirect ownership of “more than 50 percent of the voting stock.” (§ 64, subd. (c)(1).) Because the voting stock remains with Corp, and only non-voting stock was purchased by B, there is no change in control, and reassessment is not triggered.

If Corp were then to dissolve, transferring a 20 percent interest in RP to A, and an 80 percent interest in RP to B, there would still be no reassessment if “stock” in Section 62(a)(2) is read to mean “all stock.” This is because, under the “all stock” interpretation, before the transfer A and B would be considered to own a 20 percent and 80 percent interest, respectively, in RP, through their respective percentage ownership of all the stock in Corp. After the transfer, A owns a 20 percent and B owns an 80 percent interest in RP. If “stock” in Section 62(a)(2) means all stock, there is no resulting change in the proportional ownership in RP before and after the transfer, and A has successfully avoided reassessment while at the same time transferring 80 percent of RP to a third party, B.

But, if stock in Section 62(a)(2) is read to mean “voting stock,” as BOE has consistently interpreted it to mean, such gamesmanship could not occur. Before the transfer of RP, A is considered to hold 100 percent of the property through its ownership of 100 percent of Corp’s voting stock, while B is considered to own no part of RP since it does not own any voting stock. After the transfer, however, A holds only 20 percent of RP, while B holds 80 percent of RP. Thus there is a change in the proportional ownership interest before and after the transfer, Section 62(a)(2) is not satisfied, and the property is reassessed.

CONCLUSION

BOE respectfully submits that the term “stock” in Section 62(a)(2) should be interpreted as “voting stock,” consistent with BOE’s longstanding interpretation, and so as to harmonize the statutes implementing Proposition 13.

Dated: August 21, 2020 Respectfully submitted,

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Document received by the CA 2nd District Court of Appeal.

CERTIFICATE OF COMPLIANCE

I certify that the attached **BRIEF OF AMICUS CURIAE CALIFORNIA STATE BOARD OF EQUALIZATION** uses a 13 point Century Schoolbook font and contains 4,326 words.

Dated: August 21, 2020

XAVIER BECERRA
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DECLARATION OF SERVICE via TrueFiling and E-mail

Case Name: **Prang v. Amen Family Trust**
Case No.: **B298794**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive copies of said correspondence via electronic mail.

August 21, 2020, I electronically served the attached

**BRIEF OF AMICUS CURIAE CALIFORNIA
STATE BOARD OF EQUALIZATION**

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See Service Lists

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 21, 2020, at San Francisco, California.

Pauline Santamaria

Declarant



Signature

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EXHIBIT C

ASSESSORS' HANDBOOK
SECTION 401

CHANGE IN OWNERSHIP

SEPTEMBER 2010

REPRINTED JANUARY 2015

CALIFORNIA STATE BOARD OF EQUALIZATION

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Foreword

On June 6, 1978, the voters in California approved Proposition 13 which added article XIII A to the California Constitution. Article XIII A generally limits the amount of ad valorem tax to a maximum of 1 percent of the full cash value of the real property. For purposes of this limitation, the Constitution defines *full cash value* to mean a county assessor's valuation of real property as shown on the 1975-76 tax bill, or thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. As long as the property has the same owner, its assessed value generally cannot increase by more than 2 percent each year—even if the property's market value is increasing at a faster rate. As a result, the market value of many properties is often higher than the assessed value.

In its original form and at the time of its passage in 1978, Proposition 13 did not provide for any exclusion from a change in ownership. However, even during the implementation process of Proposition 13, various exclusions were contemplated. In defining change in ownership, the Legislature also provided examples of what is not a change in ownership (for example, interspousal transfers). In addition, subsequent amendments to article XIII A have been approved by voters which enacted other change in ownership exclusions. Examples of these include base year value transfers for persons over the age of 55 and the exclusion of parent-child transfers.

The California Legislature codified the definition of change in ownership and any implemented amendments to article XIII A dealing with change in ownership, by enacting Revenue and Taxation Code sections 60 through 69.5. This section of the *Assessors' Handbook* is a compilation of the information included in the Revenue and Taxation Code statutes, Property Tax Rules, and court cases as they relate to change in ownership.

Topics covered in this handbook section include changes in ownership as they pertain to tenancies in common, joint tenancies, trusts and estates, legal entities, leases, cooperative housing, interspousal transfers, domestic partners, and others. This handbook also discusses the more common change in ownership exclusions and the various base year value transfers.

Section 15606, subdivision (c), of the Government Code directs the State Board of Equalization (Board) to prescribe rules and regulations governing county assessors in the performance of their duties, and subdivision (f) provides that the Board shall issue instructions, such as those set forth in this handbook section. While rules and regulations adopted by the Board are binding as law, Board-adopted handbook sections are advisory only. Nevertheless, courts have held that they may be properly considered as evidence in the adjudicatory process.¹

¹ *Coca-Cola Co. v. State Board of Equalization* (1945) 25 Cal.2d 918; *Prudential Ins. Co. v. City and County of San Francisco* (1987) 191 Cal.App.3d 1142; *Hunt-Wesson Foods, Inc. v. County of Alameda* (1974) 41 Cal.App.3d 163.

The citations and law references in this publication were current as of the writing of the handbook section. Board staff met with members of the California Assessors' Association, County Counsels' Association of California, and industry representatives to solicit input for this handbook section. The Board approved this handbook section on September 15, 2010.

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department
California State Board of Equalization
Date

CHAPTER 6: LEGAL ENTITIES

OVERVIEW

A *legal entity* is any business organization that is legally permitted to enter into a contract, including a contract for the purchase, sale, or lease of real property. Legal entity interests may be owned individually, owned by another legal entity, or held in trust. Some of the most common legal entities holding title to real property in California and discussed in this chapter include:

- Corporations
- Partnerships
- Limited liability companies
- Joint ventures
- Massachusetts business trusts
- Real estate investment trusts

In this handbook, the use of the term *entity* refers to any such legal entity, unless otherwise qualified. Another type of entity, a *cooperative housing corporation*, is discussed at the end of this chapter because for change in ownership purposes it is not treated as a legal entity.

OWNERSHIP OF LEGAL ENTITIES

CORPORATIONS

A *corporation* is an entity distinct from its owners, called shareholders or stockholders. The significant primary characteristics of a corporation are transferable shares of stock, a perpetual existence, and limited liability, including shareholder limited responsibility for corporate debt, shareholder insulation from judgments against the corporation, and shareholder amnesty from criminal actions of the corporation.¹⁰⁵

For change in ownership purposes, ownership in a corporation is determined by the percentage of ownership or control of a corporation's voting stock.

Nonprofit Corporations

In California, a nonprofit corporation is generally organized as either a nonprofit public benefit corporation¹⁰⁶ or a nonprofit mutual benefit corporation.¹⁰⁷ Generally, the same change in ownership laws that apply to legal entities also govern transfers to, from, or between nonprofit corporations even though nonprofit corporations do not have "owners" in the traditional sense.

¹⁰⁵ The term *corporation* generally refers to corporations organized under and governed by California Corporations Code sections 100-2319, or organized under and governed by similar statutes of other states. These corporations are sometimes referred to in this chapter as *business corporations* when distinguishing them from nonprofit corporations.

¹⁰⁶ California Corporations Code sections 5110 et seq.

¹⁰⁷ California Corporations Code sections 7110 et seq.

joint venture as a partnership for property tax purposes. If one of these elements is missing, the parties to the joint venture should be treated as tenants in common.

In establishing whether a joint venture should be treated as a tenancy in common or as a partnership, the agreement is the controlling factor between the parties. The county assessor should consider the specific terms of their agreement and determine whether it supports the parties' contentions regarding their operational status (as a tenancy in common or a partnership).

MASSACHUSETTS BUSINESS TRUSTS

Generally, a trust is not considered an entity distinct from its present beneficial owners. (See Chapter 3 for a discussion of trusts.) Some trusts, commonly known as *Massachusetts business trusts*, are set up to operate as business organizations and issue transferable ownership certificates (similar to shares of stock in a corporation) that entitle the owners to share in the business income.

Rule 462.160(e) provides that the term *trust* does not include such Massachusetts business trusts or similar trusts which are taxable as separate legal entities for property tax purposes. The statutes and rules that address legal entities in general, section 64 and Rule 462.180, are applicable to such entities.

REAL ESTATE INVESTMENT TRUSTS

Real estate investment trusts, known as REITs, are pooled investment vehicles that invest in different types of real estate or real estate related assets, including shopping centers, office buildings, hotels, and mortgages secured by real estate¹¹³ As with other corporations, REITs can be publicly or privately held. Public REITs may be listed on public stock exchanges like shares of common stock in other firms. Interests in REITs are considered ownership interests for purposes of the change in ownership as applicable to transactions involving legal entities.

CHANGE IN OWNERSHIP OF LEGAL ENTITIES

In general, there are two types of transfers involving legal entities that may trigger a change in ownership of real property. The first type is a transfer of real property between an individual and an entity or between entities. The second type is a transfer of an interest in an entity.

REAL PROPERTY TRANSFERS

In general, a transfer of any interest in real property between a corporation, partnership, LLC, or other entity and a shareholder, partner, or any other person (including another entity) is a change in ownership, unless the ownership interests are identical before and after the transfer. (For more details on this exclusion, see proportional ownership interest transfer exclusion below.)¹¹⁴

¹¹³ U.S. Securities and Exchange Commission.

¹¹⁴ Section 61(j); Rule 462.180(a).

TRANSFER OF INTEREST IN AN ENTITY

Generally, purchases or transfers of corporate voting stock, partnership ownership interests, LLC membership interests, or ownership interests in other legal entities are not changes in ownership of the real property owned by the entity.¹¹⁵ There are three exceptions to this general rule:

1. A transfer of an ownership interest in a legal entity that results in a *change in control* of that entity is a change in ownership of the real property owned by the entity.¹¹⁶
2. A transfer of an ownership interest in a legal entity by an *original co-owner* that results in a cumulative transfer of more than 50 percent of all the interests held by original co-owners having been transferred is a change in ownership.¹¹⁷
3. A transfer of shares in a *cooperative housing corporation* is a change in ownership, as discussed at the end of this chapter.¹¹⁸

Change in Control

Control of a corporation exists when one entity or person has direct or indirect ownership or control of more than 50 percent of the voting stock of the corporation. *Control* of a partnership or LLC exists when one entity or person directly or indirectly owns more than 50 percent of the capital and profits interests. A transfer of an interest in a legal entity that results in a change in control of that entity is a change in ownership of the real property owned by the entity.

A person or entity obtains *direct control* of an entity:

1. When it acquires ownership or control of more than 50 percent of the voting stock of a corporation;
2. When it acquires more than 50 percent of the total interest in any partnership or LLC capital and profits; or
3. When it acquires more than 50 percent of the total ownership interest in any other entity.¹¹⁹

Example 6-1

Z owns 60 percent of the voting stock of Corporation X. B acquires Z's 60 percent interest, thereby obtaining direct control of Corporation X.

There is a change in ownership of all real property owned by Corporation X.

¹¹⁵ Section 64(a).

¹¹⁶ Section 64(c)(1).

¹¹⁷ Section 64(d).

¹¹⁸ Section 61(i).

¹¹⁹ Rule 462.180(d)(1).

section 64(c), the transfer of the partnership interest to the trust is considered a change in control of the partnership because the daughter obtained a majority ownership interest in the partnership. All the real property held by the partnership would undergo a change in ownership. The parent-child exclusion is not applicable because the daughter obtained partnership interests, not real property interests.

Revocable Trusts

The transfer by the trustor of real property, or an ownership interest in a legal entity holding an interest in real property, to a trust that is revocable by the trustor is excluded from change in ownership.¹³⁵ However, a change in ownership will occur when the trust becomes irrevocable unless the trustor-transferor remains or becomes the sole present beneficiary or unless otherwise excluded from change in ownership (interspousal or registered domestic partner exclusion).¹³⁶

Example 6-9

A, who is an original co-owner in a partnership, transfers his 80 percent partnership interest to his revocable trust. The transfer is not counted or cumulated for purposes of section 64(d). Subsequently, A dies, the trust becomes irrevocable, and A's son becomes the sole beneficiary.

More than 50 percent of an original co-owner interest has been transferred, and a change in control of the partnership occurred upon the date the trust became irrevocable and when the son acquired the majority interest. Because of the change in control, there is a change in ownership of all partnership real property, and there are no more original co-owners.

However, if instead of A's son, A's four children became the present beneficiaries of the trust, there is no reassessment because no one has acquired control of the partnership. If there had been a prior exclusion of A's interest under section 62(a)(2), then the 80 percent transfer would exceed the 50 percent original co-owner cumulative limit, and the property previously excluded would be reassessed. There would be no more original co-owners.

CHANGE IN OWNERSHIP EXCLUSIONS INVOLVING LEGAL ENTITIES

PROPORTIONAL OWNERSHIP INTEREST TRANSFER EXCLUSION

Any transfer of real property between an individual or individuals and an entity, or between legal entities, that results solely in a change in the method of holding title to the real property, and in which the proportional ownership interests of the transferors and transferees in each and every piece of real property transferred remain the same after the transfer, is excluded from a change in ownership.¹³⁷ This is known as the *proportional ownership interest transfer exclusion*.¹³⁸

¹³⁵ Section 62(d).

¹³⁶ Rule 462.160(c)(2).

¹³⁷ Section 62(a)(2). Reorganizations of affiliated corporations are governed by section 64(b).

¹³⁸ Section 62(a)(1).

Example 6-10

D and B, equal co-tenants, transfer their real property to Corporation X and each take back 50 percent of the single class of voting stock. No change in ownership occurs, since the proportional ownership interests remain the same before and after the transfer.

However, if D and B each take back 49 percent of the voting stock and C receives 2 percent of the voting stock, there will be a change in ownership of the entire property since the proportional ownership interests did not remain the same before and after the transfer.¹³⁹

Example 6-11

Corporation X owns Blackacre and Whiteacre (both are of equal value). D and B each own 50 percent of the single class of voting stock of Corporation X. D and B are indirect owners of the real property owned by Corporation X. Corporation X transfers Whiteacre to D and Blackacre to B.

There is a change in ownership of 100 percent of both Blackacre and Whiteacre because the transfers are disproportionate. B owned 50 percent of Blackacre before the transfer and 100 percent after the transfer. Similarly, D owned 50 percent of Whiteacre before the transfer and 100 percent after the transfer. Thus, both Blackacre and Whiteacre were reassessed.

However, if Corporation X transfers Whiteacre and Blackacre to both D and B as joint tenants or as equal tenants in common, there is no change in ownership because the transfers are proportional to their ownership of the corporations' voting stock.¹⁴⁰

In addition, transfers of stock, partnership or LLC interests, or any other interests in a legal entity, between legal entities or by an individual to a legal entity, or vice versa, which results solely in a change in the method of holding title and in which the proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership.¹⁴¹

Example 6-12

A owns 60 percent and B owns 40 percent of the voting stock in a corporation, and they transfer those interests to a newly formed LLC in which A receives 60 percent and B receives 40 percent of the LLC capital and profits interests.

The transfers are excluded from change in ownership since the proportional ownership interests of A and B in the real property owned by the corporation remain the same before and after the transfer. However, if A received 59 percent, B received 39 percent, and C received 2 percent of the LLC capital and profits interests, a change in control under

¹³⁹ Rule 462.180(b)(2), Example 2.

¹⁴⁰ Rule 462.180(b)(2), Example 4.

¹⁴¹ Rule 462.180(d)(4).

section 64(c) results, and all of the real property owned by the corporation would be reassessed.

Example 6-13

Using example 6-12, A instead withdraws from the corporation and receives a 60 percent tenancy in common interest in the property in exchange.

The withdrawal is excluded from change in ownership because the proportional ownership interests of A and B in the real property remain the same. B would obtain control of the corporation, but there would not be a change in ownership because the transfer was proportional. B, however, would become an original co-owner as to its corporation stock.

If A transferred his tenancy in common interest in the property to a newly formed LLC in exchange for 100 percent of the capital and profits interests in the LLC, the transfer would be excluded from change in ownership as a proportional transfer. A would become an original co-owner in the LLC, and the LLC would be a tenant in common with the corporation.

INTERSPOUSAL AND REGISTERED DOMESTIC PARTNER EXCLUSIONS

A change in ownership does not include any transfer of legal entity interests solely between spouses¹⁴² or registered domestic partners.¹⁴³ Thus, if a spouse or registered domestic partner acquires control of an entity due to the transfer of entity ownership interests from his or her respective spouse or registered domestic partner, a change in control does not occur.¹⁴⁴ (See Chapter 11 for a discussion of interspousal and registered domestic partner exclusions.)

Example 6-14

The single class of voting stock of Corporation X is owned 50 percent by H, 25 percent by his wife W, and 25 percent by his brother B. H acquires W's 25 percent interest, thereby acquiring 75 percent ownership of the Corporation X stock.

Even though H obtained more than 50 percent interest in Corporation X, the change in control is excluded from reassessment under the interspousal exclusion.

For purposes of change in ownership, a spouse's or registered domestic partner's ownership interest in an entity is not attributable to the other party. Furthermore, when entity interests are held as community property, each spouse or registered domestic partner owns one-half of the community property interest. (See Chapter 11 for a discussion of community property.)

Example 6-15

X owns a 48 percent interest in the capital and profits of an LLC as community property with B, her registered domestic partner. B purchases a 10 percent membership interest in the

¹⁴² Section 63.

¹⁴³ Section 62(p).

¹⁴⁴ Rule 462.220(a), (b), and (c).

EXHIBIT D



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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May 31, 2007

Honorable Dale Flippin
Nevada County Assessor
950 Maidu Avenue
Nevada City, CA 95959-8600

Equalization Exhibit Filed
 Applicant's H Assessor's _____
Application No 2014-015250
2015-004036
Name Amen Family Trust
Date 6/15/17 Bd Clk. [Signature]

Attn:

Re: Change of Ownership – Transfer from Revocable Trust to Corporation

Dear Mr. Flippin:

This is in response to a January 19, 2007 fax from Ms. _____ of your office to Tax Counsel Mariam Baxley in which Ms. _____ asked whether the transfer of real property from a husband and wife's revocable trust to a corporation owned 51 percent by the wife and 49 percent by the husband qualifies for the proportional transfer exclusion from change in ownership provided by Revenue and Taxation Code¹ section 62, subdivision (a)(2). As discussed in more detail below, it is our opinion that the transfer will not qualify for the proportional transfer exclusion from change in ownership unless husband and wife can present "clear and convincing evidence" to establish that their interests in the corporation were community property.

Factual Background

In 2001, husband and wife jointly formed a revocable trust (trust) and named themselves the initial trustees. In April 2006, husband and wife executed a deed conveying their interest in real property located at _____ (property), which the deed indicated was held as "community property with right of survivorship" to themselves as the trustees of the trust. Later in October 2006, husband and wife, as trustees, transferred the property to a corporation in which 51 percent of the voting stock was held in wife's name and 49 percent of the voting stock was held in husband's name.

¹ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

220.0267

Discussion

Transfer to the Revocable Trust

Section 60 defines a change in ownership as "a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." Property Tax Rule² (Rule) 462.160, subdivision (a), provides the general rule that a change in ownership occurs when real property is transferred into a trust. Section 62, subdivision (d), provides that a change in ownership does not occur when a trustor, a trustor's spouse, or both transfer property into a revocable trust. (See also Rule 462.160, subdivision (b)(2).) Therefore, husband and wife's transfer of the property to their revocable trust in 2006 was not a change in ownership pursuant to section 62, subdivision (d).

Transfer of the Property to the Corporation

Section 61, subdivision (j), supplements section 60 and further provides that "[t]he transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person" is a change in ownership, unless an exclusion from change in ownership applies. Therefore, husband and wife's October 2006 transfer of the property from the trust to their corporation constituted a change in ownership, unless an exclusion applies.

1. The Proportional Transfer Exclusion (Section 62, subd. (a)(2))

Section 62, subdivision (a)(2) provides an exclusion from change in ownership for "[a]ny transfer between an individual or individuals and a legal entity or between legal entities . . . that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer." Thus, husband and wife's October 2006 transfer would not constitute a change in ownership if husband and wife had the same proportional ownership interests in the property before and after the transfer to the corporation.

According to the April 2006 deed provided with Ms. _____'s fax, husband and wife held the property as community property prior to their transfer to the trust. Therefore, husband and wife each owned "present, existing, and *equal*" interests in the property prior to its transfer to the trust (Fam. Code, § 751), which are treated the same as the 50 percent interests of two joint tenants for change in ownership purposes. (See Letter to Assessors (LTA) 85/33 (March 5, 1985).)³

When the property was transferred to the trust, it retained its character as community property. This is because Family Code section 761 provides that community property transferred to a revocable trust during a marriage remains community property, "unless the trust instrument or instrument of transfer provides otherwise" and neither the trust instrument nor deed of transfer

² Property Tax Rules are promulgated under title 18 of the California Code of Regulations.

³ LTA 85/33 is available on the Board's Web site at: http://www.boe.ca.gov/proptaxes/pdf/lta85_33.pdf.

included with Ms. _____'s fax provide otherwise. Therefore, prior to the transfer to the corporation, husband and wife had equal, 50 percent interests in the property for change in ownership purposes.

Corporate shareholder records as of November 1, 2006, show that husband owned 49 percent of the corporation's voting stock and wife owned 51 percent of the corporation's voting stock after the property was transferred to the corporation. Evidence Code section 662 provides that "[t]he owner of legal title to property is presumed to be the owner of the full beneficial title" and that the presumption may only be rebutted by "clear and convincing" evidence. Therefore, if husband and wife cannot rebut the presumption, the transfer to the corporation caused their interests in the property, which were now represented by their interests in the corporation's voting stock, to change so that husband and wife no longer had equal interests in the property. (See Property Tax Annotation⁴ (Annot.) 220.0278 (C. May 14, 1993).) Since husband and wife's proportional interests in the property did not remain the same after the transfer to the corporation, the proportional transfer exclusion of section 62, subdivision (a)(2) does not apply. However, if husband and wife can establish by clear and convincing evidence that their voting shares in the corporation are held as community property, the proportional transfer exclusion of section 62, subdivision (a)(2) would apply because each spouse would be treated as owning one-half of the other spouse's shares per LTA 85/33, which would give husband and wife equal, 50 percent interests in the corporation after the transfer.

2. The Interspousal Transfer Exclusion (Section 63)

Section 63 provides an exclusion from change in ownership for interspousal transfers of property and ownership interests in legal entities. (See Rule 462.220.) However, the transfer to the corporation was not a transfer between spouses; it was a transfer to a legal entity so the exclusion provided by section 63 does not apply. (See Annot. 220.0278.)

Conclusion

Husband and wife's transfer of the property to the trust was not a change in ownership because section 62, subdivision (d), and Rule 462.160, subdivision (b)(2), applied. However, the subsequent transfer of the property to the corporation was a change in ownership pursuant to section 61, subdivision (j), unless husband and wife can provide clear and convincing evidence to establish that their voting shares in the corporation are community property. If the presumption that husband and wife own 49 percent and 51 percent of the corporation, respectively, is not rebutted, the proportional transfer exclusion of section 62, subdivision (a)(2) will not apply. Also, the interspousal transfer exclusion of section 63 does not apply because the transfer to the corporation was not a transfer between spouses.

⁴ Property tax annotations are summaries of the conclusions reached in selected legal rulings of State Board of Equalization counsel published in the State Board of Equalization's Property Tax Law Guide. (See Cal. Code Regs., tit. 18, § 5200 for more information regarding annotations.) Annot. 220.0278 is available on the Board's Web site at: http://www.boe.ca.gov/proptaxes/pdf/220_0278.pdf.

The views expressed in this letter are only advisory in nature. They represent the analysis of the Legal Department based on present law and the facts set forth herein. Therefore, they are not binding on any person or governmental entity.

Sincerely,

/s/ Daniel M. Paul

Daniel M. Paul
Tax Counsel

DMP:pb
Prop/Prec/Legal Entity/07-029.dmp.doc

cc:	Mr. David Gau	MIC:63
	Mr. Dean Kinnee	MIC:64
	Mr. Todd Gilman	MIC:70

EXHIBIT E



STATE BOARD OF EQUALIZATION

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Letter considers a 61(j) transfer of real property to an entity.

BETTY T. YEE
First District, San Francisco

BILL LEONARD
Second District, Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

October 30, 2009

Equalization Exhibit Filed

Applicant's F Assessor's
Application No. 2014-015250
2015-004036
Name Amen Family Trust
Date 6/15/17 Bd Clk [Signature]

RAMON J. HIRSIG
Executive Director

Re: **Request for Legal Opinion in connection with BOE-100-B filing for K B (C 0000-0000-0098), and BOE-100-B filing for U.S. , Inc. (C 0000-0000-0078)**
Assignment No.: 09-126

Dear Mr. :

This is in response to your letter of July 20, 2009, wherein you requested a written opinion concerning the property tax implications of a 2000 merger of two corporations into one surviving corporation. As the result of a form BOE-100-B, *Statement in Change in Control and Ownership of Legal Entities*, submitted on behalf of the corporations, the Board of Equalization's Legal Entity Ownership Program (LEOP) requested additional information regarding the merger and concluded that a change in ownership of the property owned by the merging corporations occurred as a result of the merger.

As explained below, we agree with the determination made by LEOP that a change in ownership of the property owned by the merged corporations occurred as a result of the merger; however, such change in ownership occurred as a result of the transfer of such real property between legal entities, and not section 64, subdivision (c)(1).

Factual Background

Based on your letter of July 20, 2009, and the supporting documentation you provided, on December 31, 2000, K B (KB) and U.S. (US) (together Merged Corporations) entered into a Plan of Agreement and Merger (Plan) whereby both corporations would merge with and into K B, Inc. (Surviving) in a reorganization intended to qualify as a tax-free reorganization under Internal Revenue Code (IRC) section 368(a)(1)(A). (Merger). Along with your letter, you provided a "Statement of Exchange" which showed stock ownership in KB and US pre-merger, and in K B, Inc. post-merger.

Letter considers a 61(j) transfer of real property to an entity.

On April 27, 2006, LEOP received a BOE-100-B, *Statement in Change in Control and Ownership of Legal Entities*, for each of the corporations involved in the Merger. In a letter to Surviving, dated June 12, 2008, LEOP requested additional information regarding the Merger. You responded with a letter dated July 2, 2008. LEOP sent another letter dated May 22, 2009, stating their conclusion that the Merger resulted in a change in ownership of the properties owned by US and K. You again responded with a letter dated June 15, 2009.

Law and Analysis

Article XIII A, section 2 of the California Constitution allows the reassessment of real property upon a "change in ownership." A change in ownership is defined in Revenue and Taxation Code¹ section 60 as "a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." Therefore, unless an exclusion applies, a change in ownership occurs upon the transfer of any interest in real property, including a transfer to a corporation or other legal entity. (Rev. & Tax. Code, § 61, subd. (j); Property Tax Rule² (Rule) 462.180, subd. (a).) However, section 64, subdivision (a) provides the general rule that the transfer of ownership interests in a legal entity, such as corporate voting stock, does not constitute a transfer of the real property owned by the legal entity. Section 64, subdivision (c)(1), provides that when an individual obtains ownership or control of more than a 50 percent ownership interest in a legal entity, there is a change in ownership of the real property owned by the legal entity in which the controlling interest is obtained. (Rev. & Tax. Code, § 64, subd. (c)(1).)

IRC section 368 governs tax-free reorganizations for purposes of federal income tax. IRC section 368(a)(1)(A) is a "statutory merger or consolidation" and must be effected pursuant to statute or statutes necessary to effect the merger or consolidation, in which, as a result of the operation of such statute or statutes, all of the assets and liabilities of a target corporation transfer to an acquiring corporation, and target ceases to exist.³ In exchange, target shareholders receive acquiring stock. Such a reorganization is sometimes referred to as a "statutory merger" or an "A reorganization."

The Plan provides that the Merger is effected pursuant to the applicable laws of the State of California and the State of Colorado.⁴ California Corporations Code section 1100 states that "Any two or more corporations may be merged into one of those corporations." Corporations Code section 1107, subdivision (a) states:

Upon merger pursuant to this chapter the separate existence of the disappearing corporations ceases and the surviving corporation shall succeed, without other transfer, to all the rights and property of each of the disappearing corporations and shall be subject to all the debts and liabilities of each in the same manner as if the surviving corporation had itself incurred them.

¹ All section references are to the Revenue and Taxation Code unless otherwise specified.

² All subsequent references to "Rules" are to the Property Tax Rules promulgated under Title 18 of the California Code of Regulations.

³ 26 C.F.R. § 1.368-2(b)(1)(ii) (2009).

⁴ Plan of Agreement and Merger, Recital C and Art. 1.

The Plan further provides for Merged Corporations' shareholders to receive Surviving stock.⁵

Therefore, pursuant to the terms of the Plan as well as the California Corporations Code under which the Plan was effectuated, as a result of the Merger, the assets of the Merged Corporations were transferred to Surviving by operation of law. Pursuant to sections 60 and 61, subdivision (j) and Rule 462.180, subdivision (a), the transfer of property from one corporation to another is a change in ownership of such property transferred. Therefore, the transfer of any California real property to Surviving as a result of the Merger resulted in a change in ownership of that property. However, the transfer of Surviving stock to former Merged Corporations shareholders would not result in a change in ownership of any California real property owned by Surviving prior to the Merger, unless one person or entity obtained more than 50 percent of Surviving stock.⁶ (Rev. & Tax. Code, § 64, subs. (a) and (c)(1).) Such, however, does not appear to be the case.

In Property Tax Annotation 220.0066, the Legal Department opined that a merger of one bank entity (SM Bank) into another (M Bank) resulted in a transfer of SM Bank assets to M Bank by operation of law, resulting in a change in ownership of any real property transferred.⁷ While you state, in a June 15, 2009 letter to Lisa Thompson of LEOP, your opinion that this portion of the Annotation is not applicable because the surviving corporation did not own property subject to taxation in California, such fact is irrelevant here. Instead, the proper inquiry is whether California real property was transferred to another legal entity without the benefit of an exclusion from change in ownership. As explained above, the Merger resulted in the transfer, by operation of law, of Merged Corporations assets to Surviving. Therefore, unless such transfer qualifies for an exclusion, any California real property will undergo a change in ownership.

Section 64, subdivision (b) sets forth an exclusion from change in ownership for any corporate reorganization that qualifies under IRC section 368 and is a nontaxable event under California law, but only if all corporations involved are "members of an affiliated group." In addition, subdivision (b) excludes from change in ownership transfers of real property or legal entity ownership interests among members of an affiliated group. "Affiliated group" is defined as "one or more chains of corporations connected through stock ownership with a common parent corporation" where both of the following conditions are met: (1) one hundred percent of the voting stock (exclusive of any share owned by directors) of each of the corporations (except the parent corporation) is owned by one or more of the other corporations; and (2) the common parent corporation owns, directly, 100 percent of the voting stock (exclusive of shares owned by the directors) of at least one of the other corporations. Pursuant to this definition, the Merged Corporations and Surviving were not members of an affiliated group since they were not owned by a common parent corporation and not related in a qualifying manner. Therefore, even though the Merger qualified under IRC section 368(a)(1)(A), the Merger does not qualify for this exclusion.

Section 62, subdivision (a)(2) provides an exclusion from the definition of change in ownership for proportional ownership interest transfers between legal entities or between legal entities and an individual. To qualify for the exclusion, such transfers must result solely in a

⁵ Plan of Agreement and Merger, Art. 2.

⁶ We also assume that the pre-Merger shareholders of Surviving were not original coowners within the meaning of section 64, subdivision (d).

⁷ Annotation 220.0066 involved a "reverse triangular merger" which, as you know must also qualify as a statutory merger.

change in the method of holding title to the real property, and the proportional ownership interests of the transferors and transferees must remain exactly the same both before and after the transfer in each and every real property transferred. (Rev. & Tax. Code, § 62, subd. (a)(2); Rule 462.180, subd. (b)(2).)

Your letter states that there is *nearly complete* commonality among the shareholders of the two merged corporations. However, for the exclusion of section 62, subdivision (a)(2) to apply, *complete* proportionality between the transferees and the transferors is required. In other words, the shareholders' interests in K and US as represented by their voting stock must have been the same prior to the Merger, and after the Merger, those same shareholders' must have the exact same interests in Surviving. Based on the Share Exchange Table attached to your letter, it appears that this is not the case. Before the Merger not all K shareholders were US shareholders and not all US shareholders were K shareholders. For example, before the Merger, Joyce had an interest in US but no interest in K. After the Merger, Joyce had a 2.33 percent interest in class B stock of Surviving. Therefore, before the Merger, Joyce had no interest in real property owned by K and after the Merger had an interest in the property transferred from K to Surviving as a result of her ownership of the Class B stock.

We are not aware of any other exclusions for which the Merger may be eligible. Thus, any California real property transferred to Surviving as a result of the Merger will undergo a change in ownership.

The views expressed in this letter are only advisory in nature. They represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Sincerely,

/s/ Daniel Paul

Daniel Paul
Tax Counsel

"AS
REPRESENTED
BY THEIR
VOTING STOCK"

DP:yg

J:/Prop/Prec/Legal Enties/09-126.doc

cc: Mr. David Gau MIC:63
Mr. Dean Kinnee MIC:64
Mr. Todd Gilman MIC:70
Ms. Lisa Thompson MIC:64

EXHIBIT F

acquired all of the capital and profits interests in F [REDACTED] R [REDACTED]. All four entities are now direct or indirect subsidiaries of the Company.

The Company filed a Form BOE-100-B, Statement of Change in Control and Ownership of Legal Entities (Form 100-B), dated August 13, 2008 (the August 13 Form) that was signed by [REDACTED], [REDACTED]'s VP of Tax (Exhibit B). The August 13 Form responded "yes" to Question 1, indicating that there had been a change in control. On each Schedule A attached thereto, the Company responded "yes" to Items 3(a) through (c), indicating that each change in control was a nontaxable reorganization. Item 6 (Ownership Interest Table) and Item 7 (Property Schedule) of each Schedule A attached to the August 13 Form were incomplete.

The Legal Department requested the Company provide some missing information.⁴ In response, the Company sent us a letter claiming that the August 13 Form was filed in error and submitted a different Form BOE-100-B signed August 4, 2008 (the August 4 Form), which they stated had been filed previously but was not in our possession. The August 4 Form indicated a "no" response to all three questions on page 1. The Company did not provide the information required for Items 6 and 7, or copies of the agreements and organizational charts that we requested.

In response to our follow-up call, the Company sent us a letter withdrawing the August 13 Form and providing the parcel numbers for all California real property owned by the Company or its subsidiaries at the time of the Reorganization.

Because the Company had not produced the information necessary to determine whether a change in ownership occurred, we reviewed the Conveyance Agreement and Amendment No. 5 to the Company's Form S-1 filed with the Securities and Exchange Commission on November 17, 2005 (Registration Statement), which contained both a description of the transactions and organizational charts which diagrammed the Company's ownership structure "before" and "after" the Reorganization (See Exhibit D and the organizational charts reproduced below).

Based on our review of the publicly available information, we concluded that a change in control occurred and that the original August 13 Form accurately reported the change in control. Because of the conflicting filings over the course of the last several months, we have had numerous communications with the Company and its outside counsel to obtain clarification from them and to request an accurate, complete filing. In a conference call with us on August 23, 2011, the Company finally conceded that a change in control occurred.

At our request, on September 1, 2011, the Company emailed new Schedule As⁵ for each of B [REDACTED], F [REDACTED] R [REDACTED], F [REDACTED]-A [REDACTED], and F [REDACTED] [REDACTED], which contain the correct responses to each of the questions (Exhibit E). These four Schedules, together with the August 13 Form, constitute the final version of the Company's filing (Exhibit F). The Company included the real property

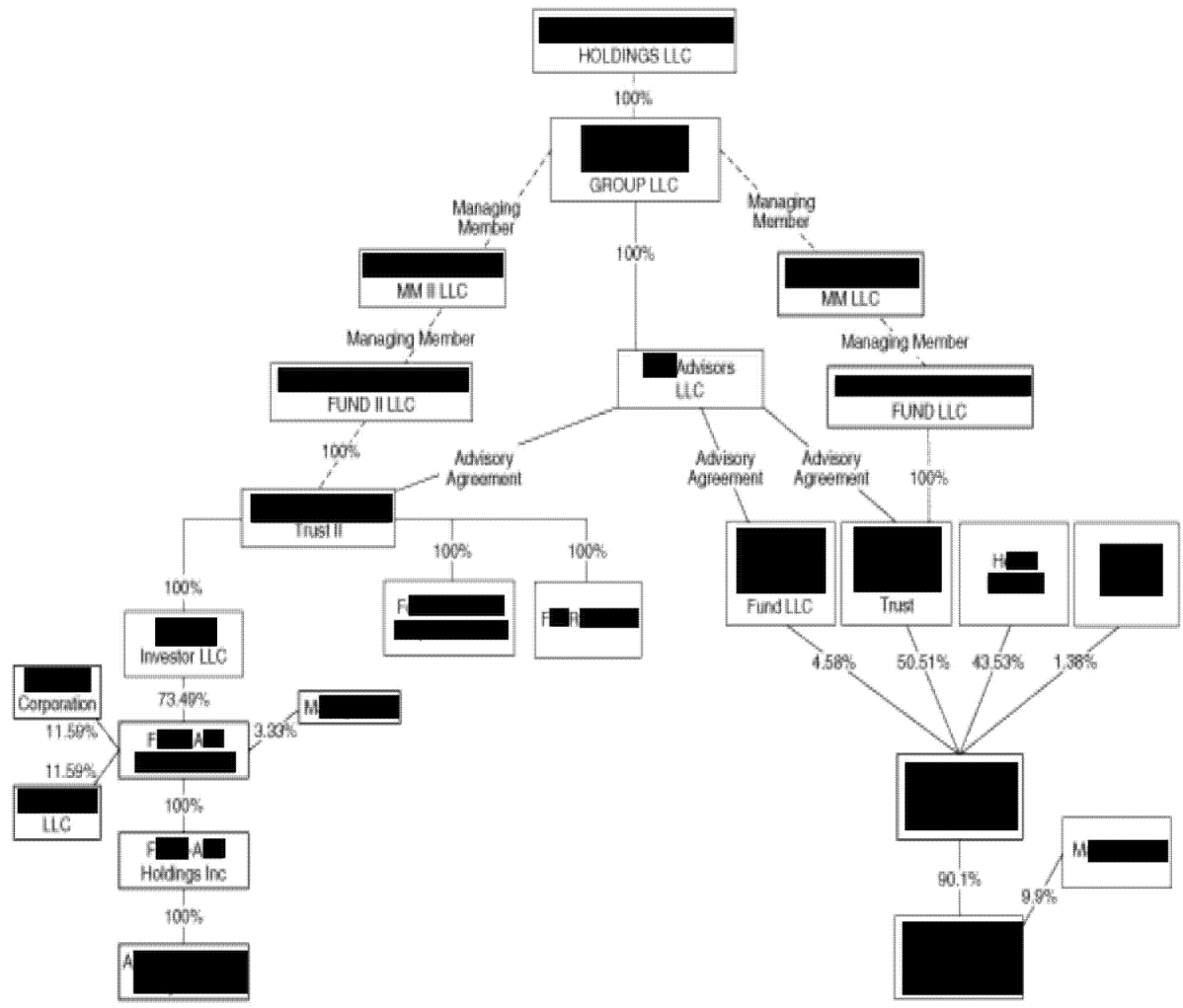
⁴ All written correspondence between the Company and the Legal Department is attached hereto as Exhibit C.

⁵ The title page for F [REDACTED]-A [REDACTED] and F [REDACTED] [REDACTED] is labeled "Schedule B," however this was an inadvertent oversight by the taxpayer and the information contained therein is the same. Each attachment should be treated as a Schedule A.

information that identifies each of the long-term leaseholds to be reassessed as of September 30, 2005, which was previously lacking.⁶

Below is the Company's diagram of its organizational structure before the Reorganization, derived from page 85 of the Amendment No. 5 to the Company's Registration Statement.

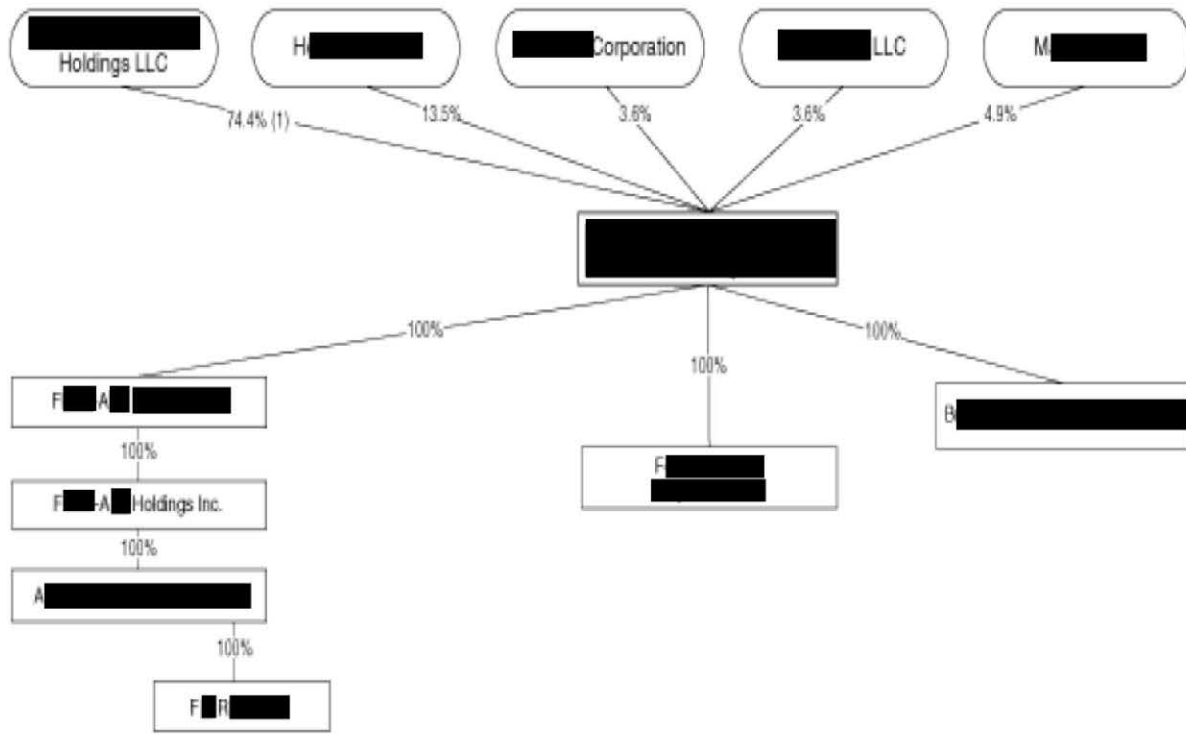
PRE-COMBINATION STRUCTURE



⁶ As shown on the organizational diagrams *infra*, we note that there were also indirect changes in control of F A Holdings, Inc. and A, as well as all of the subsidiaries under the direct or indirect control of each entity. Because the legal entity interests in F A Holdings, Inc. and Alterra did not transfer pursuant to the Conveyance Agreement, the Company did not view these entities as having undergone any change in control subject to reporting. Pursuant to our request, the Company filed a new Schedule A for each of the four main operating companies: F A, F, B and F R. Since we are able to determine the property tax consequences through those schedules and our independent research, the four Schedule As are sufficient to constitute a complete filing.

Below is the Company's diagram of its organizational structure from after the Reorganization, derived from page 86 of the Registration Statement.

POST-COMBINATION STRUCTURE



The pre-combination structure illustrates that prior to the Reorganization and formative transactions:

1. F [REDACTED]-A [REDACTED] was owned by [REDACTED] (73.49%), [REDACTED] Corporation (11.59%), [REDACTED] LLC (11.59%) and members of m [REDACTED] (3.33%);
2. F [REDACTED] R [REDACTED] was owned by [REDACTED] Trust II (100%);
3. B [REDACTED] was owned by [REDACTED] Acquisition LLC (90.1%) and members of management (9.9%); and
4. F [REDACTED] [REDACTED] was owned by [REDACTED] Trust II (100%).

The post-combination structure indicates that after the Reorganization F [REDACTED]-A [REDACTED], B [REDACTED], and F [REDACTED] [REDACTED] each became 100 percent owned by the Company directly, and F [REDACTED] R [REDACTED] become 100 percent owned by the Company indirectly.

On September 30, 2005, California real property was owned in fee by subsidiaries that are jointly owned by F [REDACTED] R [REDACTED] and B [REDACTED], and B [REDACTED] held long-term lease interests (over 35 years in length at inception) in California real property as lessee. F [REDACTED] [REDACTED] did not own property or hold long-term leasehold interests, directly or indirectly, on that date.

Law and Analysis

Article XIII A, section 2 of the California Constitution requires the reassessment of real property upon a “change in ownership,” unless an exclusion from change in ownership applies. A change in ownership is defined in section 60 as “a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.”

Section 64, subdivision (a) provides that the purchase or transfer of ownership interests in legal entities does not constitute a transfer of the legal entity’s real property.

One exception to the general rule excluding transfers of legal entity interests from change in ownership is set forth in section 64, subdivision (c)(1), and Property Tax Rule 462.180, subdivision (d)(1), which provide that when a legal entity or other person obtains control through direct or indirect ownership or control of more than 50 percent of a corporation’s voting stock, or obtains a majority ownership interest in any partnership, limited liability company, or other legal entity, through the purchase or transfer of that corporate stock or other interest, there is a change in ownership of the real property owned by that corporation or other legal entity in which the controlling interest is obtained. When a new entity is formed and is inserted into a multi-tiered corporate ownership structure and thereby obtains direct or indirect control of some of some subsidiary entities, there is a reassessable change in control of those entities under section 64, subdivision (c)(1). A change in ownership occurs because the statute provides for reassessment when a new entity obtains control whether *directly* or *indirectly*. The “ultimate control theory” that is the basis of section 64, subdivision (c)(1) does not require “that we are to ignore all intermediary entities and look only to the shareholders of the parent company which indirectly controls the title-holding subsidiary” entities. (*Kraft, Inc. v. County of Orange* (1990) 219 Cal.App.3d 1104, 1110; see also *Twentieth Century Fox Film Corporation v. County of Los Angeles* (1990) 223 Cal.App.3d 1158 (statute does not require looking behind the corporate form to individual investors to measure control).)

Under California property tax law, it is necessary to measure ownership interests in a legal entity for purposes of determining or measuring changes in control, and as discussed below, proportionality of ownership. For corporations, the ownership interests for measuring changes in control and proportionality of ownership are represented by voting stock. (See Rev. & Tax. Code, § 62, subd. (a)(2); § 64, subd. (c)(1); and Rule 462.180, subd. (d)(1)(A).) For partnerships and limited liability companies, ownership interests are represented by percentages of interests in capital and profit. (See Rule 462.180, subd. (d)(1)(B) and Examples 7, 9 and 10.)

Section 62, subdivision (a)(2), and Rule 462.180, subdivision (b)(2), provide an exclusion for transfers that might otherwise result in a change in ownership, known as the proportional ownership interest transfer exclusion. The proportional ownership interest transfer exclusion excludes from change in ownership a transfer of real property between legal entities or between a legal entity and an individual that results solely in a change in the method of holding title and in which the proportional ownership interests of the transferors and transferees, whether represented by stock, partnership or LLC interests, or otherwise, in each and every piece of real property transferred, remains the same after the transfer.

Rule 462.180, subdivision (d)(4) extends the proportional ownership interest transfer exclusion to transfers of interests in legal entities that might otherwise result in a change in control under section 64, subdivision (c)(1). Thus, a transfer of legal entity interests that results solely in a change in the method of holding title, and in which proportional ownership interests in all real property represented by the transferred interests remain the same after the transfer, does not constitute a change in ownership. As explained in Property Tax Annotations 220.0375.010 (November 19, 1999) and 220.0454 (January 13, 2009), where the proportional ownership interest transfer exclusion operates to exclude from change in ownership a transfer that would otherwise result in a change in control under section 64, subdivision (c)(1), the proportional ownership interest transfer exclusion takes precedence.

There is another exclusion from change in ownership for certain reorganizations. Section 64, subdivision (b) provides that a change in ownership does not result from any corporate reorganization where all of the *corporations* involved are members of an affiliated group, and the reorganization qualifies as a nontaxable event under Internal Revenue Code section 368 and similar California statutes. An “affiliated group” means one or more chains of corporations connected through stock ownership with a common parent corporation if both of the following are met: (1) one hundred percent of the voting stock, exclusive of any shares owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations, and (2) the common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations. In *Pueblos Del Rio South v. City of San Diego* (1989) 209 Cal.App.3d 893, and *Sav-On Drugs, Inc. v. County of Orange* (1987) 190 Cal.App.3d 1611, the California Court of Appeal concluded the phrase “members of an affiliated group” means affiliation from the beginning of the transaction until the end of the transaction and that affiliation cannot be just one step in the reorganization.

The recitals contained in the Conveyance Agreement provide some insight into the ownership structure of the various entities involved in the Reorganization. However, the most useful ownership information was derived from the text and organizational charts in the Registration Statement. From these sources it is clear that after the Reorganization F [REDACTED]-A [REDACTED], B [REDACTED] and F [REDACTED] [REDACTED] each became wholly owned by the Company directly, and F [REDACTED] R [REDACTED] became wholly owned by the Company indirectly. The Company did not have any ownership interest in these entities before the Reorganization. These changes in the ownership of each entity constitute changes in control under section 64, subdivision (c)(1) and the relevant California case law even though the same entity, [REDACTED] Holdings LLC, maintained a majority indirect ownership interest both before and after.⁷ As a result of these direct changes in control, there were indirect changes in control of each subsidiary of F [REDACTED]-A [REDACTED], F [REDACTED] R [REDACTED], B [REDACTED] and F [REDACTED], and these indirect changes in control also result in reassessable changes in ownership under section 64, subdivision (c)(1).

Pursuant to your request, we next analyze whether an exclusion from change in ownership is available. Under Rule 462.180, subdivision (d)(4), a change in control may be excluded if there is identical proportional ownership after the transaction, which is not the case here. For example, members of M [REDACTED] collectively held a 3.33 percent interest in F [REDACTED]-A [REDACTED] before the Reorganization, and afterwards members of M [REDACTED] collectively held an indirect

⁷ See *Kraft, Inc. v. County of Orange* (1990) 219 Cal.App.3d 1104; see also *Twentieth Century Fox Film Corp. v. County of Los Angeles* (1990) 223 Cal.App.3d 1158.

4.9 percent interest in F [REDACTED]-A [REDACTED]. Prior to the Reorganization, F [REDACTED] R [REDACTED] was wholly owned by [REDACTED] Trust II, which was indirectly wholly owned by [REDACTED] Holdings LLC, and subsequently F [REDACTED] R [REDACTED] became wholly owned by A [REDACTED], with [REDACTED] Holdings LLC indirectly owning 74.4 percent of F [REDACTED] R [REDACTED]. Members of M [REDACTED] collectively held a 9.9 percent interest in B [REDACTED] before the Reorganization, and afterwards members of M [REDACTED] collectively held an indirect 4.9 percent interest in B [REDACTED] through their indirect ownership in the Company. Prior to the Reorganization, F [REDACTED] was wholly owned by [REDACTED] Trust II, which was indirectly wholly owned by [REDACTED] Holdings LLC, whereas subsequent to the Reorganization F [REDACTED] became wholly owned by the Company, with [REDACTED] Holdings indirectly owning 74.4 percent of F [REDACTED] through its indirect ownership in the Company. As such, the proportional ownership interest transfer exclusion is inapplicable here.

The other exclusion that could enable these entities to avoid reassessment is found in section 64, subdivision (b), which applies to certain tax-free reorganizations among corporations that are members of an affiliated group. Even assuming the Reorganization qualified as a reorganization under both the Internal Revenue Code and California statutes, the section 64, subdivision (b) requirements were not met. First, because the Company did not exist as an entity prior to these transactions, it was not a member of an affiliated group before the Reorganization and case law requires affiliation both before and after the reorganization. Second, three of the four entities acquired are not corporations (F [REDACTED]-A [REDACTED], F [REDACTED] R [REDACTED] and F [REDACTED]), and the statute requires that the reorganization be among *corporations* that are members of an affiliated group. Section 64, subdivision (b) does not apply to reorganizations involving limited liability companies.

Conclusion

Because F [REDACTED]-A [REDACTED], F [REDACTED] R [REDACTED], B [REDACTED] and F [REDACTED] all underwent changes in control for which no exclusion applies, and because each of their subsidiaries underwent indirect changes in control for which no exclusion applies, all California real property owned or leased for a term of 35 years or more by those entities and their subsidiaries should be reassessed as of September 30, 2005. Those properties are:

Owner	Address	Parcel #	County #	Ownership
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned

<u>Owner</u>	<u>Address</u>	<u>Parcel #</u>	<u>County #</u>	<u>Ownership</u>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Owned
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Leased
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Leased
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Leased
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Leased

MAT:mcb

J:/Prop/Prec/LEOP, LEGAL ENTITIES & CHANGEOWNSHP/2011/10-265.doc

cc: Mr. David Gau MIC:63
Mr. Dean Kinnee MIC:64
Mr. Todd Gilman MIC:70

EXHIBIT G



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JOHN CHIANG
Fourth District, Los Angeles
KATHLEEN CONNELL
State Controller, Sacramento
JAMES E. SPEED
Executive Director

April 12, 2002

██████████, Esq.
████████████████████
████████████████████
████████████████████

**Re: Exchange, Transfer and Conversion of Interests
in a Limited Partnership Owning Real Property**

Dear Ms. ██████:

This is in response to your letter to Susan Scott of the Board’s Legal Division, requesting our opinion as to whether three described transactions, involving transfers of partnership interests, would constitute changes in ownership for property tax purposes, resulting in reappraisal of the real properties owned by the partnerships. For the reasons set forth below, we conclude that none of the transactions described would be changes in ownership of the partnerships’ property. We address the transactions in the order submitted.

1. A California limited partnership owning real property in the State of California is comprised of six general partners and a number of limited partners. Four of the general partners collectively owning a 10% interest in the partnership desire to convert their general partnership interests to limited partnership interests. The other two general partners collectively owning a 21% interest in the partnership intend to each transfer .01% of their general partnership interests to two separate limited liability companies in which each general partner is the sole member of one of the limited liability companies. Their remaining general partnership interests will be converted to limited partnership interests.

Analysis

Revenue and Taxation Code Section 60 defines "change in ownership" as a "transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest." The interests being “transferred” or converted in this transaction are not interests in “real property”, directly, however, but instead are partnership interests. In addressing such transfers, the Legislature enacted Revenue and Taxation Code section 64, specifically applying the general change in ownership definition of section 60 to the purchase or transfer of ownership interests in legal entities owning real property, as they

relate to the deemed transfer of the real property of the legal entity for property tax change in ownership purposes.

Section 64, subdivision (a) provides that, with the exception of three situations specified there, “the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership or limited liability company interests, shall not be deemed to constitute a transfer of the real property of the legal entity. . . .”

While the term “ownership interests” used in sections 62 and 64 is not defined in the code, it is defined in Property Tax Rule 462.180(d)(1) (18 Cal. Code of Regs. § 462.180) which interprets those provisions. In this regard, Rule 462.180, in effect, defines “ownership interest” as the voting stock in a corporation, or the “total interest in partnership capital and . . . profits.” Accordingly, it is these definitions of “ownership interest” to which we look in determining the applicable interests in entities, such as limited partnerships.

In the conversion of the partners’ general partnership interests to limited partnership interests at issue, there are no transfers of capital and profits interests by the “converting” partners. As such, there would be no “transfers”, or change in ownership, of any such partnership interests. Whether an ownership interest is a general partnership interest or a limited partnership interest is irrelevant in analyzing property tax limited partnership change in ownership situations. Both general and limited partnership interests include a right to share in the partnership profits and losses. Hence what is relevant is the amount or percentage of the interests held by each partner. The change in ownership consequences are determined by the amount owned by each partner (limited or general) after any transfer. (Annotation No. 220.0387, 6/19/98, attached.)

Relevant here is the percentage of capital and profits interests transferred by the two general partners to their limited liability companies. The proportionality of ownership is determined by the direct or indirect ownership of their interests in LLC capital and partnership interests after the transfers. Since the two general partners will continue to own and control after the transfer, the exact same .01% capital and profits interests indirectly through the LLC as they did directly in the limited partnership before the transfer, the exclusion in section 62(a)(2) would apply. That section provides that “change in ownership” does not include:

Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subparagraph (b) of section 64.

See Rule 462.180(d)(1)(B); Annotation 220.0391, 8/10/2000 Nauman Letter; Annotation 220.0387, (enclosed). Hence, following the transfers, the two general partners will hold the same .01% of their respective interests in the limited partnership indirectly through their wholly owned LLC's. However, since it is necessary to utilize section 62(a)(2) to exclude these transfers, these partners will be classified as "original coowners" with respect to such interests in their LLC's. Although future transfers of these .01 percent interests will need to be "counted" or cumulated, the threshold of an original coowner transferring more than 50% for a change in ownership under Revenue and Taxation Code section 64(d) will never be met. Consequently, no change in ownership under section 64(d) would occur.

Finally, you state that the general partners "collectively own" certain percentages of interests, indicating that you would attribute one partner's capital and profits interests to another. However, it has consistently been our position that the treatment of ownership interests in legal entities -per rule 462.180 (d)(1) - does not provide for the attribution of corporate stock among shareholders or the attribution of capital and profits interests among partners (or LLC members), but requires the assessor to attribute only the percentage owned by each (based on the stock certificates or partnership agreement). Even among spouses, interests in legal entities are not attributed to each other and are not counted as "collective" interests. (Rule 462.220.) The only exception occurs when by an irrevocable stock proxy or similar arrangement made pursuant to Corporations Code section 704, two or more persons who are entitled to vote as individuals, are irrevocably bound by a shareholder agreement requiring that if one votes, that act binds all, and the result of that one vote is to control more than 50% of the total corporate shares. (See Annotation Nos. 220.0111, Eisenlauer 8/11/86, 220.120 Ochsner 2/20/85, and Annotation No. 220.105, Eisenlauer 4/11/83, enclosed.)

2. The same situation as No. 1 above, except the general partners collectively own more than 50% interest in the partnership and two of the general partners will each transfer .01% of their general partnership interests to the two limited liability companies in which each is the sole member of their limited liability company. The remaining general partnership interests will be converted to limited partnership interests.

Analysis

The same analysis as is applicable to the first proposed transaction is also applicable to this one. As is explained above, the conversion of partnership interests from a general partnership interest to a limited partnership interest is not a transfer of that interest for property tax analysis purposes, since there is no "transfer" of the "converting" capital and profits interests in the partnership. As such, such partners will not be deemed to have "obtained" new ownership interests, and their "conversions" would have no property tax consequences.

Additionally, the transfers of the .01 percent interests by two general partners to their respective LLC's are excluded from change in ownership under section 62(a)(2), since the partners will hold exactly the same capital and profits interests (albeit indirectly) in the LP after

the transfers. The two general partners and their respective LLC's would however, be classified as "original coowners" for purposes of future transfers of their .01 percent interests. The fact that the two general partners "collectively" own more than 50% of the total partnership interests in this situation is irrelevant. As discussed above, there is no attribution of interests between partners.

3. In this transaction, a California general partnership intends to convert to a California limited partnership. Two of the partners will transfer .01% of their partnership interests to their limited liability companies in which each is the sole member, and their remaining general partnership interests will be converted to limited partnership interests. The other general partners of the general partnership will be limited partners of the limited partnership holding the same percentage interests they now hold as general partners of the general partnership. The conversion of the general partnership to the limited partnership will be in accordance with Section 16902 of the California Corporations Code which provides that a partnership (other than a registered limited liability partnership) may be converted to a domestic limited partnership or limited liability company or foreign other business entity if each of the partners of the converting partnership would receive a percentage interest in the profits and capital of the converted other business equal to the partner's percentage interest in profits and capital of the converting partnership as of the effective time of the conversion.

Analysis

The transaction described here involves a statutory conversion under California law of a general partnership to a limited partnership. The property tax consequences of such a conversion are governed by Property Tax Rule 462.180(d)(4), which provides as follows:

Proportional Interest Transfers. Transfers of stock, partnership interests, limited liability company interests, or any other interests in legal entities between legal entities or by an individual to a legal entity (or vice versa) which result solely in a change in the method of holding title and in which proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership, as provided in . . . Section 62(a)(2) of the Revenue and Taxation Code. This provision shall not apply to a statutory conversion or statutory merger of a partnership into a limited liability company or other partnership (or a limited liability company into a partnership) when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the converting or disappearing entity maintain the same ownership interest in profits and capital

of the converted or surviving entity that they held in the converting or disappearing entity. [Emphasis added.]

Under the foregoing language added to Rule 462.180 by Board amendment in 1999, the conversion of any general partnership to a limited partnership or to an LLC (or visa versa), in which the proportional ownership interests of the transferors and transferees remain the same, does not constitute a change in ownership. Based on the last sentence in subdivision (d)(4), no transfer of the property owned by the entities is deemed to occur following such conversion. Therefore, the exclusion under Revenue and Taxation Code section 62, subdivision (a)(2) does not need to be applied, since the converted entity is deemed to be the same entity for all purposes.

Example 8 of Rule 462.180 illustrates the application of the last sentence in subdivision (d)(4) with respect to statutory conversions. In Example 8,¹ there is a statutory conversion of a general partnership into a limited partnership, in which the partners' proportional ownership interests remained the same before and after the conversion. The Example indicates that the exclusion in section 62, subdivision (a)(2) is not necessary because no change in ownership of the general partnership's real estate was deemed to occur upon the conversion, in that Corporations Code section 16909 provides that there is no transfer of the real property. As stated in Corporations Code section 16909, subdivision (a), "[a]n entity that converts into another entity pursuant to this article is for all purposes the same entity that existed before the conversion."

The transaction proposed here is analogous to Example 8 since it is a conversion of the G.P. into an L.P.² Therefore, no change in ownership will result, and the proportional interest exclusion in section 62(a)(2) does not need to be applied. The advantage of transacting a statutory conversion in conformity with Example 8, is that subsequent to the conversion, neither the partners in L.P., nor the L.P., will be considered "original coowners." Whenever the transferors and transferees in a particular transaction do not use the section 62(a)(2) exclusion in order to exclude the property transferred from change in ownership, they cannot be classified as

¹ Example 8 states: "General Partnership (GP), which owns Whiteacre and in which A and B hold equal partnership interests, converts to Limited Partnership (LP) under the Revised Uniform Partnership Act of 1994 (California Corporations Code section 16100 et seq.). As a result of the conversion, A and B each hold 50 percent of the LP interests in capital and profits. No change in ownership of Whiteacre upon the conversion, because, under Section 16909 of the Corporations Code, there is no transfer of Whiteacre. Section 62(a)(2) of the Revenue and Taxation Code does not apply. However, if A and B were 'original coowners' in GP, they remain 'original coowners' in LP."

² It is beyond the scope of this opinion to address whether a conversion of a general partnership into a limited partnership, in which the general partners are LLC's which were not originally general partners of the general partnership, qualifies as a statutory conversion under Corporations Code section 16902. This opinion assumes the validity of the statutory conversion, however, in order to qualify it for the exclusion in Rule 462.180 (a)(4).

Rule 462.180(d)(4) gives two examples of statutory mergers and conversions that are excluded from change in ownership reassessment on the basis of the fact that there is simply no "transfer" of assets "when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the disappearing entity maintain the same ownership interest in profits and capital of the converted or surviving entity that they held in the converting or disappearing entity. This applies equally to conversion and mergers of general partnerships under Corporations Code §§16909 and 16914, mergers of limited partnerships under Corporations Code §15678.6, subdivision (a), and mergers of limited liability companies under Corporations Code §17554.

██████████, Esq.

April 12, 2002

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"original coowners" for purposes of future transfers counted under section 64(d). Since the property transferring from the G.P. to L.P. is excluded because of the conversion provision in subdivision (d)(4) of Rule 462.180 and not under section 62(a)(2), future transfers of interests by the partners or the L.P. will not need to be "counted" or cumulated.

With respect to the transfers of the two .01 percent general partnership interests to the wholly-owned LLC's of the transferring partners, as with the two proposed transfers discussed above, such transfers would be excluded from change in ownership under section 62(a)(2), for the same reasons. However, unlike the statutory conversion discussed above, since it is necessary to utilize section 62(a)(2) to exclude these transfers, these partners will be classified as "original coowners" with respect to such interests in their LLC's. Although future transfers of these .01 percent interests will need to be "counted" or cumulated, the threshold of an original coowner transferring more than 50% for a change in ownership under Revenue and Taxation Code section 64(d) will never be met. Consequently, no change in ownership under section 64(d) would occur.

The views expressed in this letter are advisory only, they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Sincerely,

Daniel G. Nauman
Senior Tax Counsel

DGN:eb

prop/prec/llc/02/03dgn

Enclosures

cc: Mr. David Gau, MIC:64
Chief of PPSD, MIC:64
Mr. Charles Knudsen, MIC:62
Ms. Jennifer Willis, MIC:70
Ms. Kristine Cazadd, MIC:82

EXHIBIT H



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 PROPERTY AND SPECIAL TAXES DEPARTMENT
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 916 274-3350 • FAX 916 285-0134
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 Second District, Lancaster

MICHELLE STEEL
 Third District, Rolling Hills Estates

JEROME E. HORTON
 Fourth District, Los Angeles

JOHN CHIANG
 State Controller

KRISTINE CAZADD
 Interim Executive Director

April 27, 2011

No. 2011/016

TO COUNTY ASSESSORS:

LEGAL ENTITIES CHANGE IN OWNERSHIP – OVERVIEW

Due to continued inquiries, this letter provides a brief overview of the applicable change in ownership laws that affect real property owned by legal entities.

A *legal entity* is any business organization with an existence separate from its owners. Legal entities are permitted to enter into contracts, including contracts for the purchase, sale, or lease of real property. Some of the most common legal entities holding title to real property in California include corporations, partnerships, and limited liability companies (LLC). The term "legal entity" or "entity," as used in this letter, does not include a trust (unless it is a business trust) or a cooperative housing corporation as these types of entities are not treated as legal entities for property tax change in ownership purposes.

There are two types of transfers involving legal entities that may trigger a change in ownership of real property. The first type is a transfer of real property between an individual and an entity or between entities. The second type is a transfer of an ownership interest in an entity that owns real property.

TRANSFER OF REAL PROPERTY

Generally, a transfer of any interest in real property from an individual to a legal entity, from a legal entity to an individual, or between legal entities is a change in ownership under Revenue and Taxation Code¹ section 61(j) and Property Tax Rule 462.180.² Reassessment is limited to the percentage interest in real property transferred, unless an exclusion from change in ownership is applicable.

The most common exclusion available is under section 62(a)(2). This section excludes from change in ownership transfers of real property where the proportional ownership interests in the real property are identical before and after the transfer. Specifically, section 62(a)(2) provides that any transfer of real property between an individual or individuals and a legal entity, or between legal entities, that results solely in a change in the method of holding title to the real property, and in which the proportional ownership interests of the transferors and transferees in each and every piece of real property transferred remain the same after the transfer, is excluded from a change in ownership. This is known as the *proportional ownership interest transfer exclusion*.

¹ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

² Title 18, Public Revenues, California Code of Regulation

If a transfer of real property to a legal entity is excluded under section 62(a)(2), those persons holding ownership interests in the legal entity immediately after the transaction are deemed the "original co-owners." This term does not apply to the reverse situation; if real property is transferred from a legal entity to individuals, the individuals do not become original co-owners. When a legal entity is involved in a transfer of real property and the ownership interests are not identical, then the entire real property interest transferred is subject to reassessment, not merely the disproportionate interest.

TRANSFER OF INTEREST IN A LEGAL ENTITY

Section 64 sets forth the change in ownership provisions related to the purchase or transfer of ownership interests in legal entities that own real property. Section 64(a) provides the general rule that transfers of interests in legal entities do not constitute changes in ownership of the real property owned by those legal entities. Thus, purchases or transfers of corporate voting stock, partnership ownership interests, LLC membership interests, or ownership interests in other legal entities are not changes in ownership of the real property owned by the legal entity.

However, there are two exceptions to this general rule. The first exception is when a *change in control* of the legal entity occurs, all real property owned by the entity will be reassessed. The second exception is when a legal entity's *original co-owners* cumulatively transfer more than 50 percent of their ownership interests in that legal entity, the real property previously excluded from change in ownership under section 62(a)(2) will be reassessed.

Change in Control

Section 64(c)(1) provides that when any person or entity obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of a corporation, or of more than a 50 percent ownership interest in any other type of legal entity, a reassessment of all the real property owned by the acquired legal entity (and any entity under its control) as of the date of the change in control occurs.

A person or entity obtains *direct control* of an entity when that person or entity acquires:

- (1) Ownership or control of more than 50 percent of the voting stock of a corporation;
- (2) more than 50 percent of the total interest in any partnership or LLC capital and profits; or
- (3) more than 50 percent of the total ownership interest in any other entity.

A person or entity may obtain *indirect control* of an entity by acquiring direct control of another entity that, in turn, directly or indirectly controls such entity.

Transfers by "Original Co-Owners"

On or after March 1, 1975, when real property or an interest in an entity is transferred to a legal entity or between entities in a transaction qualifying for the proportional ownership interest transfer exclusion (ownership interests are the same before and after), then those person(s) or entities holding ownership interests in that legal entity immediately after the transaction are deemed the "original co-owners." If an excluded transaction to a legal entity is made by a trust, the present beneficial owners of the trust property are considered the original co-owners.

Section 64(d) provides that when voting stock or other ownership interests representing cumulatively more than 50 percent of the total interests in a legal entity are transferred by any of the original co-owners in one or more transactions, the real property that was previously excluded from change in ownership under section 62(a)(2) will be reassessed. If the transfer by original co-owners also results in a person or entity acquiring control, then all the real property owned by the entity would be reassessed under section 64(c)(1), not just the real property previously excluded under section 62(a)(2). Any real property acquired by the legal entity for which no section 62(a)(2) exclusion was applied would not be affected by any original co-owner transfers as it was reassessed upon the acquisition.

REPORTING REQUIREMENTS

Reporting a change in control or change in ownership of a legal entity is to be distinguished from reporting a transfer of real property to or from a legal entity or between legal entities. Transfers of real property are to be reported to the county assessor via a *Preliminary Change of Ownership Report* or *Change in Ownership Statement* when a document or deed effecting a change in ownership is recorded. These forms are available from the county assessor or county recorder.

Whenever there is a change in control or a change in ownership of a legal entity that owns³ California real property, the person or legal entity acquiring control or ownership must file a *Statement of Change in Control and Ownership of Legal Entities*⁴ with the State Board of Equalization (Board) within 45 days of the date of the change in control or change in ownership. When the death of a partner or shareholder results in a change in control or change in ownership, the legal entity must file within 45 days of the date of death.⁵ This form, filing requirements, and additional information on legal entity transfers are available from the Board's website at www.boe.ca.gov/proptaxes/leop.htm.

Furthermore, additional information regarding change in ownership is contained in Assessors' Handbook Section 401, *Change in Ownership*, which is posted on the Board's website at www.boe.ca.gov/proptaxes/pdf/ah401.pdf. If you have any questions regarding a change in control or ownership of a legal entity, please contact our County-Assessed Properties Division at 916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs

³ Ownership may include real property held under a lease with a term of 35 years or more, including any options. For further details, please see the Board of Equalization's website at www.boe.ca.gov/proptaxes/leop.htm.

⁴ Form BOE-100-B.

⁵ If, as of the date of death, it is unknown whether a change in control or ownership occurred, the entity should file a protective claim with as much information as is known within 45 days of the date of death. Another BOE-100-B should be filed once a change in control or ownership determination is made.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 18565 Jamboree Road, Suite 500, Irvine, CA 92612.

On April 15, 2021, I served **EXHIBITS IN SUPPORT OF APPELLANT’S OPENING BRIEF**, on the interested parties, addressed as follows:

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<p>Jennifer Bacon Henning Executive Director, County Counsels' Association, and Litigation Counsel, California State Association of Counties® 1100 K Street, Suite 101 Sacramento, CA 95814 jhenning@counties.org</p>	<p>Jozel Brunett Chief Counsel, Franchise Tax Board Legal Division PO Box 1720 Rancho Cordova, CA 95741 jozel.brunett@ftb.ca.gov</p>
<p>State Board of Equalization Property Tax Department 450 N. Street, MIC 121 P.O. Box 942879 Sacramento, CA 94279-0121 Henry.Nanjo@boe.ca.gov</p>	<p>CA Court of Appeals Second District, Div. 5 300 S. Spring St., Ste. B-228 Los Angeles, CA 90013</p>
<p>Karen W. Yiu Deputy Attorney General Office of the Attorney General, 1515 Clay Street, 20th Floor, Oakland, CA 94612-1492 (510) 879-1245 karen.yiu@doj.ca.gov</p>	
<input checked="" type="checkbox"/>	<p>[BY TRUEFILING] I caused the above document to be electronically served on counsel of record by using TrueFiling's e-service and all interested parties registered by e-service for this case.</p>

<input checked="" type="checkbox"/>	(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
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<input checked="" type="checkbox"/>	[BY UPS OVERNIGHT] I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for delivery by UPS Overnight. Under the practice it would be deposited with UPS on that same day with postage thereon fully prepared at Irvine, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if delivery by UPS is more than one day after date of deposit with UPS.
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Executed on April 15, 2021 at Irvine, California.

/s/ Vanessa Hudak

Vanessa Hudak

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **PRANG v.
AMEN**

Case Number: **S266590**

Lower Court Case Number: **B298794**

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

4/15/2021

Date

/s/Vanessa Hudak

Signature

Fraser, Colin (266867)

Last Name, First Name (PNum)

Greenberg Traurig, LLP

Law Firm