



A Tradition of Stewardship
A Commitment to Service

Assessor-Recorder-County Clerk
Assessor Division

1127 First Street, Suite 128
Napa, CA 94559-2931

(707) 253-4459
Fax: (707) 299-4440

JOHN TUTEUR
ASSESSOR-RECORDER-COUNTY CLERK

CHANGING TITLE TO REAL PROPERTY CAN TRIGGER A REASSESSMENT

Changing title to real property (land, buildings, vineyards, etc.) can have important impacts on future property taxes since under Proposition 13 the manner of holding title can impact whether or not a reassessment is required when certain ownership changes occur. Some of the most complex change of ownership rules apply to partnerships, corporations and other legal entities (other than revocable and irrevocable trusts) which are becoming more popular as attorneys and financial advisors suggest the use of limited liability entities for estate planning purposes.

There are two keys to understanding the change of ownership rules that apply to legal entities, the proportional ownership of the entity vis-a-vis the real property and the concept of change of control of the entity. Using partnerships as an example, let's look at both issues. Three individuals own a piece of real property as equal one third owners. They decide to put the property into a partnership of which they are the three partners. If the partnership is owned in equal thirds, there is no reassessment when they deed the property to the partnership since the proportional interests did not change. However, if they hold the partnership interest 60/20/20, then there will be a 100% reassessment since the proportional interests before and after do not match exactly. If the three individuals had owned three lots of equal value and contributed them to a single partnership which they owned in equal thirds, there would still be a 100% reassessment of each lot since ownership of each lot had gone from 100% to 33 1/3% for each individual.

Change in control applies to partnerships which originally take title to property (as opposed to individuals deeding the property into a partnership). If a partnership with three equal partners takes title to property and one of the partners later buys another partner's share to gain 2/3 of the partnership, there is a 100% reassessment of the property since one person (or entity) gained control (more than 50%) of the entity. If the partners had held the land as individuals, there would only have been a 33 1/3% reassessment when one individual bought out another individual.

A different situation applies to legal entities which took title to property from the original individual owners (or from another entity) in the same proportional interests, i.e. three individual owners became three equal partners, after March 1 1975. This transfer into a legal entity is excluded from reassessment under California law. These properties are then subject to a 50% cumulative change of ownership test related to the "original co-owners" who made the initial

transfer into the legal entity. Thus, if one partner sells her share to a new partner, there is no change in control (still three partners) but that sale uses up 33 1/3% of the 50% trigger. When a second partner sells to another new partner, there is no change in control (still three equal partners), but now a cumulative 66 2/3% interest has changed. This more than 50% cumulative change would trigger a 100% reassessment of the property since 100% was excluded to when the original title change was made. Once this cumulative reassessment takes place, the property reverts to a “change in control” test since the original exclusion has now been reappraised.

Finally, legal entities are neither “parents” nor “children” and thus cannot qualify for the parent-to-child exclusion from reassessment without recording transitional deeds into and out of the legal entity. For family owned property, this can be a real problem if a legal entity is being considered for estate or long-term management issues. Always consult your professional advisors or have them call our office if there are questions on these complicated issues.

Should you have any questions please contact Napa County Assessor-Recorder-County Clerk John Tuteur at 707.253.4459 or by e-mail john.tuteur@countyofnapa.org More articles can be found at <http://www.countyofnapa.org/Assessor/>