

ASSEMBLY BILL

No. 244

Introduced by Assembly Member Perea

February 3, 2011

An act to amend Section 64 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 244, as introduced, Perea. Property taxation.

Existing law requires the Franchise Tax Board to include specified questions on the income tax returns of specified entities regarding changes in ownership of the real property owned by the entity and requires the Franchise Tax Board to notify the State Board of Equalization if an entity responds affirmatively to these questions.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 64 of the Revenue and Taxation Code is
- 2 amended to read:
- 3 64. (a) Except as provided in subdivision (i) of Section 61 and
- 4 subdivisions (c) and (d) of this section, the purchase or transfer of
- 5 ownership interests in legal entities, such as corporate stock or
- 6 partnership or limited liability company interests, shall not be
- 7 deemed to constitute a transfer of the real property of the legal
- 8 entity. This subdivision is applicable to the purchase or transfer

1 of ownership interests in a partnership without regard to whether
2 it is a continuing or a dissolved partnership.

3 (b) Any corporate reorganization, where all of the corporations
4 involved are members of an affiliated group, and that qualifies as
5 a reorganization under Section 368 of the United States Internal
6 Revenue Code and that is accepted as a nontaxable event by similar
7 California statutes, or any transfer of real property among members
8 of an affiliated group, or any reorganization of farm credit
9 institutions pursuant to the federal Farm Credit Act of 1971 (Public
10 Law 92-181), as amended, shall not be a change of ownership.
11 The taxpayer shall furnish proof, under penalty of perjury, to the
12 assessor that the transfer meets the requirements of this subdivision.

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

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

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

24 (c) (1) When a corporation, partnership, limited liability
25 company, other legal entity, or any other person obtains control
26 through direct or indirect ownership or control of more than 50
27 percent of the voting stock of any corporation, or obtains a majority
28 ownership interest in any partnership, limited liability company,
29 or other legal entity through the purchase or transfer of corporate
30 stock, partnership, or limited liability company interest, or
31 ownership interests in other legal entities, including any purchase
32 or transfer of 50 percent or less of the ownership interest through
33 which control or a majority ownership interest is obtained, the
34 purchase or transfer of that stock or other interest shall be a change
35 of ownership of the real property owned by the corporation,
36 partnership, limited liability company, or other legal entity in which
37 the controlling interest is obtained.

38 (2) On or after January 1, 1996, when an owner of a majority
39 ownership interest in any partnership obtains all of the remaining
40 ownership interests in that partnership or otherwise becomes the

sole partner, the purchase or transfer of the minority interests, subject to the appropriate application of the step-transaction doctrine, shall not be a change in ownership of the real property owned by the partnership.

(d) If property is transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in ownership by paragraph (2) of subdivision (a) of Section 62, then the persons holding ownership interests in that legal entity immediately after the transfer shall be considered the “original coowners.” 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 the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

A transfer of shares or other ownership interests that results in a change in control of a corporation, partnership, limited liability company, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision.

(e) To assist in the ~~determination~~ *determining* of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the following form on returns for partnerships, banks, and corporations (except tax-exempt organizations):

If the corporation (or partnership or limited liability company) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership or limited liability company capital and partnership or limited liability company profits) (1) been transferred by the corporation (or partnership or limited liability company) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)

If the entity answers “yes” to (1) or (2) in the above question, ~~then~~ the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership or limited liability

- 1 company ownership interest transferees to the State Board of
- 2 Equalization.

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