

California Tax Alert

IMPORTANT ALERT FOR ANY LEGAL ENTITY THAT OWNS REAL PROPERTY IN CALIFORNIA! NEW MANDATORY SELF-REPORTING WITH PENALTIES EFFECTIVE JANUARY 1, 2010

California Senate Bill No. 816 has revised the reporting requirements that relate to the change of control or ownership of legal entities in California, and establishes significant penalties for non-compliance.

The key revisions in this legislation include:

- **Change in Control or Ownership Reporting:** Imposes a 10% penalty on the annual tax liability when a legal entity does not self-report a change in control or ownership within 45 days of the event.
- **Penalty Abatement:** Removes the automatic penalty abatement when a legal entity fails to file a statement within 45 days from the earlier of (1) the event date, or (2) the date of a written request by the State Board of Equalization.
- **Access to Assessor Records:** The list of state and local agencies that can obtain appraisal records from the Assessor is expanded to include the county recorder for the purpose of determining whether the documentary transfer tax should be imposed.
- **Documentary Transfer Tax Appeal:** States that the value of property determined for purposes of the documentary transfer tax is not binding on the value determined by the Assessor, the assessment appeals board, or a court of law reviewing values established by an appeals board.

EXISTING LAW

Under existing law, a person or legal entity (i.e. corporation, partnership, LLC, etc) is required to file a change in ownership statement (1) within 45 days from the date of the change in control or the change in ownership, or (2) within 45 days from the date of a written request by the State Board of Equalization. While there is no penalty for failure to file *voluntarily* within 45 days of the event, existing law requires a penalty to be imposed if the person or legal entity required to file a change in ownership statement fails to do so within 45 days from the date of a *written* request by the State Board of Equalization or County Assessor. This penalty is automatically extinguished if the change in ownership statement is filed no later than 60 days after the date on which the legal entity is notified of the penalty. The existing law also authorizes the State Board of Equalization to recommend to the county board of supervisors that the penalty be abated if the person or legal entity establishes to the satisfaction of the State Board of Equalization that the failure to file the change in ownership statement within 45 days was due to reasonable cause and not due to willful neglect and the person or legal entity has filed the change in ownership statement and an application for abatement of the penalty with the State Board of Equalization.

NEW LAW

The revised law requires a penalty to be imposed if the person or legal entity required to file a change in ownership statement fails to do so voluntarily within 45 days from the earlier of (1) the date of the change in control or ownership, or (2) the date of a written request by the State Board of Equalization. This bill would also eliminate the requirement to extinguish the penalty and would, instead, authorize the county board of supervisors to order that this penalty be abated, if the person or legal entity establishes to the satisfaction of the county board of supervisors that the failure to file the change in ownership statement within 45 days was due to reasonable cause and not due to willful neglect, and the person or legal entity has filed the change in ownership statement with the State Board of Equalization. In order for a request to abate the penalty to be heard by the county board of supervisors, an application must be filed with the clerk of the assessment appeals board within 60 days after the date on which the person or legal entity was notified of the penalty.

DOCUMENTARY TRANSFER TAX

With the trend in California to combine the offices of the county assessor and the county recorder, the barriers to sharing information have been realigned. The assessors' records can be used to identify when a change in control or ownership has occurred in order to determine whether documentary transfer tax is due. California cities and counties charge a Documentary Transfer Tax on the transfer of ownership of real property which is based on the "value" of the real property transferred. The new law also has language that addresses the difference between "value" for Property Tax purposes and the "value" for Transfer Tax purposes.

For additional information or questions on California property tax, please contact your local Paradigm Tax Group Managing Consultant ([click here](#) for contact information), or contact:

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