

AMENDED IN ASSEMBLY MAY 3, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2492

Introduced by Assembly Member Ammiano

February 19, 2010

An act to amend Sections 62, 64, and 65.1 of, and to add Sections 64.1 and 64.5 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to amend Section 64 of, and to add Section 480.8 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2492, as amended, Ammiano. Property taxation: change in ownership.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests in a corporation, partnership, limited liability company, or other legal entity results in a change in ownership of the real property owned by that entity, and generally provides that a change in ownership as so described occurs when a legal entity or other person obtains a controlling or majority ownership interest in the legal entity. Existing law also specifies other circumstances in which certain transfers

of ownership interests in legal entities result in a change in ownership of the real property owned by those legal entities.

~~This bill would instead specify that when 100% of ownership interests in a legal entity, as defined, are sold or transferred in a single transaction, as specified, the real property directly or indirectly owned by that legal entity has changed ownership in proportion to that portion of the ownership interests in the entity that were transferred. This bill would also provide that all of the real property owned by a legal entity in the state has undergone a change in ownership when over 50% of the ownership interests in that entity have been transferred, as specified. This bill would also specify, in the case of a publicly traded company, that all of the real property owned by the company in the state has undergone a change in ownership when over 50% of the ownership interests in that company have been transferred. This bill would establish a rebuttable presumption that, as of January 1, 2011, and on January 1 of each 3rd fiscal year thereafter, all of the real property owned by a publicly traded company in the state has undergone a change in ownership. This bill would require local assessors to notify a publicly traded company of this presumption and allow an assessee or an assessor to rebut this presumption in a specified manner. This bill would also require the State Board of Equalization to promulgate regulations to implement these provisions, whether or not any one legal entity that is a party to the transaction acquires more than 50% of the ownership interests. The bill would require the State Board of Equalization to notify assessors when a change in ownership as so described occurs.~~

~~This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.~~

~~By requiring local assessors to notify publicly traded companies of the rebuttable presumption described above, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: *yes-no*.

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

1 SECTION 1. *It is the intent of the Legislature in enacting this*
2 *act to specify those circumstances under which real property owned*
3 *by banks and financial institutions that have been subject to*
4 *mergers and acquisitions by other banks and financial institutions,*
5 *such as the mergers that occurred during the financial crisis of*
6 *2008, undergo a change in ownership, to ensure that the real*
7 *property owned by those banks and financial institutions undergo*
8 *a change in ownership.*

9 SEC. 2. *Section 64 of the Revenue and Taxation Code is*
10 *amended to read:*

11 64. (a) Except as provided in subdivision (i) of Section 61 and
12 subdivisions (c) and (d) ~~of this section~~, the purchase or transfer of
13 ownership interests in legal entities, such as corporate stock or
14 partnership or limited liability company interests, ~~shall not be~~
15 ~~deemed to~~ *does not* constitute a transfer of the real property of the
16 legal entity. This subdivision ~~is applicable~~ *applies* to the purchase
17 or transfer of ownership interests in a partnership without regard
18 to whether it is a continuing or a dissolved partnership.

19 (b) Any corporate reorganization, where all of the corporations
20 involved are members of an affiliated group, and that qualifies as
21 a reorganization under Section 368 of the United States Internal
22 Revenue Code and that is accepted as a nontaxable event by similar
23 California statutes, or any transfer of real property among members
24 of an affiliated group, or any reorganization of farm credit
25 institutions pursuant to the federal Farm Credit Act of 1971 (Public
26 Law 92-181), as amended, shall not be a change of ownership.
27 The taxpayer shall furnish proof, under penalty of perjury, to the
28 assessor that the transfer meets the requirements of this subdivision.

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

33 (1) One hundred percent of the voting stock, exclusive of any
34 share owned by directors, of each of the corporations, except the

1 parent corporation, is owned by one or more of the other
2 corporations.

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

6 (c) (1) (A) When a corporation, partnership, limited liability
7 company, other legal entity, or any other person obtains control
8 through direct or indirect ownership or control of more than 50
9 percent of the voting stock of any corporation, or obtains a majority
10 ownership interest in any partnership, limited liability company,
11 or other legal entity through the purchase or transfer of corporate
12 stock, partnership, or limited liability company interest, or
13 ownership interests in other legal entities, including any purchase
14 or transfer of 50 percent or less of the ownership interest through
15 which control or a majority ownership interest is obtained, the
16 purchase or transfer of that stock or other interest shall be a change
17 of ownership of the real property owned by the corporation,
18 partnership, limited liability company, or other legal entity in which
19 the controlling interest is obtained.

20 (B) *When 100 percent of the ownership interests in a legal entity*
21 *are sold or transferred in a single transaction, whether by merger,*
22 *acquisition, private equity buyout, transfer of partnership shares,*
23 *or any other means by which a legal entity acquires the ownership*
24 *interests of another legal entity, including the subsidiaries or*
25 *affiliates of the legal entity and the property owned by those*
26 *subsidiaries or affiliates, the purchase or transfer of the ownership*
27 *interests shall be a change of ownership of the real property owned*
28 *by the legal entity, whether or not any one legal entity that is a*
29 *party to the transaction acquires more than 50 percent of the*
30 *ownership interests.*

31 (2) On or after January 1, 1996, when an owner of a majority
32 ownership interest in any partnership obtains all of the remaining
33 ownership interests in that partnership or otherwise becomes the
34 sole partner, the purchase or transfer of the minority interests,
35 subject to the appropriate application of the step-transaction
36 doctrine, shall not be a change in ownership of the real property
37 owned by the partnership.

38 (d) If property is transferred on or after March 1, 1975, to a
39 legal entity in a transaction excluded from change in ownership
40 by paragraph (2) of subdivision (a) of Section 62, then the persons

1 holding ownership interests in that legal entity immediately after
2 the transfer shall be considered the “original coowners.” Whenever
3 shares or other ownership interests representing cumulatively more
4 than 50 percent of the total interests in the entity are transferred
5 by any of the original coowners in one or more transactions, a
6 change in ownership of that real property owned by the legal entity
7 shall have occurred, and the property that was previously excluded
8 from change in ownership under the provisions of paragraph (2)
9 of subdivision (a) of Section 62 shall be reappraised.

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

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

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

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

30 If the entity answers “yes” to (1) or (2) in the above question,
31 then the Franchise Tax Board shall furnish the names and addresses
32 of that entity and of the stock or partnership or limited liability
33 company ownership interest transferees to the State Board of
34 Equalization.

35 (f) *The State Board of Equalization may prescribe those*
36 *regulations as may be necessary to carry out the purposes of this*
37 *section.*

38 (g) *For purposes of this section, both of the following shall*
39 *apply:*

1 (1) “Legal entity” means a corporation, a partnership, a limited
2 liability company, or other legal entity.

3 (2) “Ownership interests” means corporate voting stock,
4 partnership capital and profits interests, limited liability company
5 membership interests, and other ownership interests in legal
6 entities.

7 SEC. 3. Section 480.8 is added to the Revenue and Taxation
8 Code, to read:

9 480.8. The board shall notify assessors when a change in
10 ownership described in subparagraph (B) of paragraph (1) of
11 subdivision (c) of Section 64 has occurred.

12 SEC. 4. This act provides for a tax levy within the meaning of
13 Article IV of the Constitution and shall go into immediate effect.

14 SECTION 1. ~~The Legislature finds and declares all of the~~
15 ~~following:~~

16 ~~(a) For ad valorem property taxation purposes, the California~~
17 ~~Constitution generally limits annual increases in the assessed~~
18 ~~taxable value of real property to 2 percent of the property’s adjusted~~
19 ~~base year value, but requires that real property be reassessed at its~~
20 ~~full cash value when that real property undergoes a change in~~
21 ~~ownership.~~

22 ~~(b) These rules provide a necessary protection for real property~~
23 ~~owners when land values rise more rapidly than income.~~

24 ~~(c) Because of difficulties in identifying changes in ownership~~
25 ~~of certain nonresidential commercial and industrial properties,~~
26 ~~these properties often escape reassessment at full market value~~
27 ~~upon a change in ownership.~~

28 ~~(d) As a result of these assessment anomalies, despite rapid~~
29 ~~economic growth during the 1990s which increased the value of~~
30 ~~nonresidential commercial and industrial properties, the share of~~
31 ~~real property taxes paid by nonresidential commercial and industrial~~
32 ~~property owners decreased, while the share of real property taxes~~
33 ~~paid by residential property owners (e.g. homeowners) increased.~~

34 ~~(e) Failure to capture the rising land values of nonresidential~~
35 ~~commercial and industrial properties that have undergone a change~~
36 ~~in ownership has a range of negative consequences, including, but~~
37 ~~not limited to:~~

38 ~~(1) Hampering the ability of local governments to build new~~
39 ~~infrastructure and provide vital services.~~

1 ~~(2) Imposing a disproportionate property tax burden on newly~~
2 ~~constructed properties when compared to existing properties.~~

3 ~~(3) Encouraging local governments to foster sales tax-generating~~
4 ~~retail development rather than fostering job-creating investments~~
5 ~~such as manufacturing.~~

6 ~~(f) Therefore, it is the intent of the Legislature to enact a~~
7 ~~program to specify those circumstances under which nonresidential~~
8 ~~commercial and industrial property undergoes a change in~~
9 ~~ownership, to ensure that all real property is assessed at fair market~~
10 ~~value when that real property undergoes a change in ownership.~~

11 ~~SEC. 2. Section 62 of the Revenue and Taxation Code is~~
12 ~~amended to read:~~

13 ~~62. Change in ownership does not include:~~

14 ~~(a) (1) Any transfer between coowners that results in a change~~
15 ~~in the method of holding title to the real property transferred~~
16 ~~without changing the proportional interests of the coowners in that~~
17 ~~real property, such as a partition of a tenancy in common.~~

18 ~~(2) Any transfer between an individual or individuals and a legal~~
19 ~~entity or between legal entities, such as a cotenancy to a~~
20 ~~partnership, a partnership to a corporation, or a trust to a cotenancy,~~
21 ~~that results solely in a change in the method of holding title to the~~
22 ~~real property and in which proportional ownership interests of the~~
23 ~~transferors and transferees, whether represented by stock,~~
24 ~~partnership interest, or otherwise, in each and every piece of real~~
25 ~~property transferred, remain the same after the transfer. This~~
26 ~~paragraph shall not apply to transfers also excluded from change~~
27 ~~in ownership under the provisions of subdivision (e) of Section~~
28 ~~64.~~

29 ~~(b) Any transfer for the purpose of perfecting title to the~~
30 ~~property.~~

31 ~~(c) (1) The creation, assignment, termination, or reconveyance~~
32 ~~of a security interest; or (2) the substitution of a trustee under a~~
33 ~~security instrument.~~

34 ~~(d) Any transfer by the trustor, or by the trustor's spouse or~~
35 ~~registered domestic partner, or by both, into a trust for so long as~~
36 ~~(1) the transferor is the present beneficiary of the trust, or (2) the~~
37 ~~trust is revocable; or any transfer by a trustee of such a trust~~
38 ~~described in either clause (1) or (2) back to the trustor; or, any~~
39 ~~creation or termination of a trust in which the trustor retains the~~

1 reversion and in which the interest of others does not exceed 12
2 years duration.

3 (e) Any transfer by an instrument whose terms reserve to the
4 transferor an estate for years or an estate for life. However, the
5 termination of such an estate for years or estate for life shall
6 constitute a change in ownership, except as provided in subdivision
7 (d) and in Section 63.

8 (f) The creation or transfer of a joint tenancy interest if the
9 transferor, after the creation or transfer, is one of the joint tenants
10 as provided in subdivision (b) of Section 65.

11 (g) Any transfer of a lessor's interest in taxable real property
12 subject to a lease with a remaining term (including renewal options)
13 of 35 years or more. For the purpose of this subdivision, for
14 1979-80 and each year thereafter, it shall be conclusively presumed
15 that all homes eligible for the homeowners' exemption, other than
16 manufactured homes located on rented or leased land and subject
17 to taxation pursuant to Part 13 (commencing with Section 5800)
18 and floating homes subject to taxation pursuant to Section 229,
19 that are on leased land have a renewal option of at least 35 years
20 on the lease of that land, whether or not in fact that renewal option
21 exists in any contract or agreement.

22 (h) Any purchase, redemption, or other transfer of the shares or
23 units of participation of a group trust, pooled fund, common trust
24 fund, or other collective investment fund established by a financial
25 institution.

26 (i) Any transfer of stock or membership certificate in a housing
27 cooperative that was financed under one mortgage, provided that
28 mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or
29 236 of the National Housing Act, as amended, or that housing
30 cooperative was financed or assisted pursuant to Section 514, 515,
31 or 516 of the Housing Act of 1949 or Section 202 of the Housing
32 Act of 1959, or the housing cooperative was financed by a direct
33 loan from the California Housing Finance Agency, and provided
34 that the regulatory and occupancy agreements were approved by
35 the governmental lender or insurer, and provided that the transfer
36 is to the housing cooperative or to a person or family qualifying
37 for purchase by reason of limited income. Any subsequent transfer
38 from the housing cooperative to a person or family not eligible for
39 state or federal assistance in reduction of monthly carrying charges

1 or interest reduction assistance by reason of the income level of
2 that person or family shall constitute a change of ownership.

3 ~~(j) Any transfer during the period March 1, 1975, to March 1,~~
4 ~~1981, between coowners in any property that was held by them as~~
5 ~~coowners for all or part of that period, and which was eligible for~~
6 ~~a homeowner's exemption during the period of the coownership,~~
7 ~~notwithstanding any other provision of this chapter. Any transferee~~
8 ~~whose interest was revalued in contravention of the provisions of~~
9 ~~this subdivision shall obtain a reversal of that revaluation with~~
10 ~~respect to the 1980-81 assessment year and thereafter, upon~~
11 ~~application to the county assessor of the county in which the~~
12 ~~property is located filed on or before March 26, 1982. No refunds~~
13 ~~shall be made under this subdivision for any assessment year prior~~
14 ~~to the 1980-81 fiscal year.~~

15 ~~(k) Any transfer of property or an interest therein between a~~
16 ~~corporation sole, a religious corporation, a public benefit~~
17 ~~corporation, and a holding corporation as defined in Section 23701h~~
18 ~~holding title for the benefit of any of these corporations, or any~~
19 ~~combination thereof (including any transfer from one entity to the~~
20 ~~same type of entity), provided that both the transferee and transferor~~
21 ~~are regulated by laws, rules, regulations, or canons of the same~~
22 ~~religious denomination.~~

23 ~~(l) Any transfer, that would otherwise be a transfer subject to~~
24 ~~reappraisal under this chapter, between or among the same parties~~
25 ~~for the purpose of correcting or reforming a deed to express the~~
26 ~~true intentions of the parties, provided that the original relationship~~
27 ~~between the grantor and grantee is not changed.~~

28 ~~(m) Any intrafamily transfer of an eligible dwelling unit from~~
29 ~~a parent or parents or legal guardian or guardians to a minor child~~
30 ~~or children or between or among minor siblings as a result of a~~
31 ~~court order or judicial decree due to the death of the parent or~~
32 ~~parents. As used in this subdivision, "eligible dwelling unit" means~~
33 ~~the dwelling unit that was the principal place of residence of the~~
34 ~~minor child or children prior to the transfer and remains the~~
35 ~~principal place of residence of the minor child or children after~~
36 ~~the transfer.~~

37 ~~(n) Any transfer of an eligible dwelling unit, whether by will,~~
38 ~~devise, or inheritance, from a parent or parents to a child or~~
39 ~~children, or from a guardian or guardians to a ward or wards, if~~
40 ~~the child, children, ward, or wards have been disabled, as provided~~

1 in subdivision (e) of Section 12304 of the Welfare and Institutions
2 Code, for at least five years preceding the transfer and if the child,
3 children, ward, or wards have adjusted gross income that, when
4 combined with the adjusted gross income of a spouse or spouses,
5 parent or parents, and child or children, does not exceed twenty
6 thousand dollars (\$20,000) in the year in which the transfer occurs.
7 As used in this subdivision, “child” or “ward” includes a minor or
8 an adult. As used in this subdivision, “eligible dwelling unit” means
9 the dwelling unit that was the principal place of residence of the
10 child or children, or ward or wards for at least five years preceding
11 the transfer and remains the principal place of residence of the
12 child or children, or ward or wards after the transfer. Any transferee
13 whose property was reassessed in contravention of the provisions
14 of this subdivision for the 1984–85 assessment year shall obtain
15 a reversal of that reassessment upon application to the county
16 assessor of the county in which the property is located. Application
17 by the transferee shall be made to the assessor no later than 30
18 days after the later of either the transferee’s receipt of notice of
19 reassessment pursuant to Section 75.31 or the end of the 1984–85
20 fiscal year.

21 (e) Any transfer of a possessory interest in tax-exempt real
22 property subject to a sublease with a remaining term, including
23 renewal options, that exceeds half the length of the remaining term
24 of the leasehold, including renewal options.

25 (p) (1) Commencing on January 1, 2000, any transfer between
26 registered domestic partners, as defined in Section 297 of the
27 Family Code, including, but not limited to:

28 (A) Transfers to a trustee for the beneficial use of a registered
29 domestic partner, or the surviving registered domestic partner of
30 a deceased transferor, or by a trustee of such a trust to the registered
31 domestic partner of the trustor.

32 (B) Transfers that take effect upon the death of a registered
33 domestic partner.

34 (C) Transfers to a registered domestic partner or former
35 registered domestic partner in connection with a property settlement
36 agreement or decree of dissolution of a registered domestic
37 partnership or legal separation.

38 (D) The creation, transfer, or termination, solely between
39 registered domestic partners, of any coowner’s interest.

1 ~~(E) The distribution of a legal entity’s property to a registered~~
2 ~~domestic partner or former registered domestic partner in exchange~~
3 ~~for the interest of the registered domestic partner in the legal entity~~
4 ~~in connection with a property settlement agreement or a decree of~~
5 ~~dissolution of a registered domestic partnership or legal separation.~~

6 ~~(2) Any transferee whose property was reassessed in~~
7 ~~contravention of the provisions of this subdivision for a transfer~~
8 ~~occurring between January 1, 2000, and January 1, 2006, shall~~
9 ~~obtain a reversal of that reassessment upon application to the~~
10 ~~county assessor of the county in which the property is located.~~
11 ~~Application by the transferee shall be made to the assessor no later~~
12 ~~than June 30, 2009. A county may charge a fee for its costs related~~
13 ~~to the application and reassessment reversal in an amount that does~~
14 ~~not exceed the actual costs incurred. This paragraph shall be~~
15 ~~liberally construed to provide the benefits of this subdivision and~~
16 ~~Article XIII A of the California Constitution to registered domestic~~
17 ~~partners.~~

18 ~~(A) After consultation with the California Assessors’~~
19 ~~Association, the State Board of Equalization shall prescribe the~~
20 ~~form for claiming the reassessment reversal described in paragraph~~
21 ~~(2). The claim form shall be entitled “Claim for Reassessment~~
22 ~~Reversal for Registered Domestic Partners.” The claim shall state~~
23 ~~on its face that a “certificate of registered domestic partnership”~~
24 ~~is available upon request from the California Secretary of State.~~

25 ~~(B) The information on the claim shall include a description of~~
26 ~~the property, the parties to the transfer of interest in the property,~~
27 ~~the date of the transfer of interest in the property, and a statement~~
28 ~~that the transferee registered domestic partner and the transferor~~
29 ~~registered domestic partner were, on the date of transfer, in a~~
30 ~~registered domestic partnership as defined in Section 297 of the~~
31 ~~Family Code.~~

32 ~~(C) The claimant shall declare that the information provided on~~
33 ~~the form is true, correct, and complete to the best of his or her~~
34 ~~knowledge and belief.~~

35 ~~(D) The claimant shall provide with the completed claim the~~
36 ~~“Certificate of Registered Domestic Partnership,” or photocopy~~
37 ~~thereof, naming the transferee and transferor as registered domestic~~
38 ~~partners and reflecting the creation of the registered domestic~~
39 ~~partnership on a date prior to, or concurrent with, the date of the~~
40 ~~transfer for which a reassessment reversal is requested.~~

1 ~~(E) Any reassessment reversal granted pursuant to a claim shall~~
2 ~~apply commencing with the lien date of the assessment year, as~~
3 ~~defined in Section 118, in which the claim is filed. No refunds~~
4 ~~shall be made under this paragraph for any prior assessment year.~~

5 ~~(F) Under any reassessment reversal granted pursuant to that~~
6 ~~claim, the adjusted full cash value of the subject real property in~~
7 ~~the assessment year described in subparagraph (E) shall be the~~
8 ~~adjusted base year value of the subject real property in the~~
9 ~~assessment year in which the excluded purchase or transfer took~~
10 ~~place, factored to the assessment year described in subparagraph~~
11 ~~(E) for both of the following:~~

12 ~~(i) Inflation as annually determined in accordance with~~
13 ~~paragraph (1) of subdivision (a) of Section 51.~~

14 ~~(ii) Any subsequent new construction occurring with respect to~~
15 ~~the subject real property.~~

16 ~~SEC. 3. Section 64 of the Revenue and Taxation Code is~~
17 ~~amended to read:~~

18 ~~64. (a) For purposes of this section, the following definitions~~
19 ~~apply:~~

20 ~~(1) “Legal entity” means a corporation, a partnership, a limited~~
21 ~~liability company, or other legal entity, but does not include a~~
22 ~~publicly traded company.~~

23 ~~(2) “Publicly traded company” means a corporation or other~~
24 ~~entity that meets both of the following conditions:~~

25 ~~(A) The corporation or entity is subject to the filing requirements~~
26 ~~of the United States Securities and Exchange Commission.~~

27 ~~(B) The corporation or entity directly or indirectly owns an~~
28 ~~interest in real property in California.~~

29 ~~(3) “Ownership interest” means corporate voting stock,~~
30 ~~partnership capital and profits interests, limited liability company~~
31 ~~membership interests, and other ownership interests in legal entities~~
32 ~~and publicly traded companies.~~

33 ~~(4) “Directly owned” means that the legal entity or publicly~~
34 ~~traded company has an interest in real property that constitutes~~
35 ~~ownership for change in ownership purposes.~~

36 ~~(5) “Indirectly owned” means that the legal entity or publicly~~
37 ~~traded company has an ownership interest in another legal entity~~
38 ~~or publicly traded company that has an interest in real property~~
39 ~~that constitutes ownership for change in ownership purposes.~~

1 ~~(b) Except as provided in subdivision (i) of Section 61 and~~
2 ~~subdivisions (c) and (d), the purchase or transfer of ownership~~
3 ~~interests in a legal entity or a publicly traded company does not~~
4 ~~constitute a transfer of the real property directly or indirectly owned~~
5 ~~by a legal entity or publicly traded company. This subdivision~~
6 ~~applies to the purchase or transfer of ownership interests in a~~
7 ~~partnership without regard to whether it is a continuing or a~~
8 ~~dissolved partnership.~~

9 ~~(e) (1) (A) Except as provided in paragraph (2), the transfer~~
10 ~~of ownership interests in a legal entity constitutes a change in~~
11 ~~ownership of the real property directly or indirectly owned by the~~
12 ~~legal entity in the same proportion as that represented by the ratio~~
13 ~~of the transferred ownership interests to the total ownership~~
14 ~~interests in the legal entity.~~

15 ~~(B) Transfers of different ownership interests in a legal entity~~
16 ~~shall be accumulated each assessment year and a new base year~~
17 ~~value shall be established as of the following lien date for the real~~
18 ~~property interests that have undergone a change in ownership for~~
19 ~~that assessment year.~~

20 ~~(2) For purposes of this subdivision, both of the following apply:~~

21 ~~(A) When the transfer of different ownership interests in a legal~~
22 ~~entity represents, cumulatively in any assessment year or in~~
23 ~~multiple assessment years, more than 50 percent of the total~~
24 ~~ownership interests in that legal entity, all of the real property~~
25 ~~directly or indirectly owned by the legal entity in the state has~~
26 ~~undergone a change in ownership and a new base year value shall~~
27 ~~be established for the real property as of the following lien date.~~

28 ~~(B) The transfer of ownership interests in a legal entity during~~
29 ~~an assessment year, or as accumulated over multiple assessment~~
30 ~~years, that represents, when transferred, less than 10 percent of~~
31 ~~the ownership interests in the legal entity and that have a fair~~
32 ~~market value of less than one hundred thousand dollars (\$100,000);~~
33 ~~does not constitute a change in ownership of the real property~~
34 ~~interests directly or indirectly owned by the legal entity.~~

35 ~~(d) (1) (A) Except as provided in subdivision (e), the transfer~~
36 ~~of cumulatively more than 50 percent of the ownership interests~~
37 ~~in a publicly traded company results in a change in ownership of~~
38 ~~all of the real property directly or indirectly owned by the publicly~~
39 ~~traded company in the state and a new base year value shall be~~
40 ~~established for the real property as of the date of the transfer of~~

1 cumulatively more than 50 percent of the ownership interests in
2 the company.

3 (B) For purposes of determining whether a change in ownership,
4 as described in this subdivision, of a publicly traded company's
5 real property has occurred, it is conclusively presumed that a single,
6 individual share of voting stock or any other ownership interest in
7 a publicly traded company is transferred only once subsequent to
8 the most recent change in ownership of the real property directly
9 or indirectly owned by that publicly traded company.

10 (2) For the 2011-12 fiscal year, it is rebuttably presumed that,
11 as of January 1, 2011, the real property directly or indirectly owned
12 by each publicly traded company has undergone a change in
13 ownership, as described in this subdivision, since January 1, 2008.
14 There is a further rebuttable presumption that a change in
15 ownership, as described in this subdivision, occurs as of January
16 1, 2014, and every three years thereafter. The assessor or assessee
17 may rebut these presumptions in the manner described in Section
18 64.1.

19 (e) Any corporate reorganization, where all of the corporations
20 involved are members of an affiliated group, and that qualifies as
21 a reorganization under Section 368 of the United States Internal
22 Revenue Code and that is accepted as a nontaxable event by similar
23 California statutes, or any transfer of real property among members
24 of an affiliated group, or any reorganization of farm credit
25 institutions pursuant to the federal Farm Credit Act of 1971 (Public
26 Law 92-181), as amended, shall not be a change of ownership.
27 The taxpayer shall furnish proof, under penalty of perjury, to the
28 assessor that the transfer meets the requirements of this subdivision.

29 For purposes of this subdivision, "affiliated group" means one
30 or more chains of corporations connected through stock ownership
31 with a common parent corporation if both of the following
32 conditions are met:

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

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

1 ~~(f) To assist in the determination of whether a change of~~
2 ~~ownership has occurred under subdivisions (c) and (d), the~~
3 ~~Franchise Tax Board shall include a question in substantially the~~
4 ~~following form on returns for~~

5 ~~legal entities and publicly traded companies:~~

6 ~~“If the legal entity or publicly traded company owns or leases~~
7 ~~real property in California, have any ownership interests in the~~
8 ~~legal entity or publicly traded company been transferred since the~~
9 ~~last change in ownership of the real property directly or indirectly~~
10 ~~controlled by the legal entity or corporation?”~~

11 ~~If the legal entity or publicly traded company answers “yes” to~~
12 ~~the above question or does not respond, the Franchise Tax Board~~
13 ~~shall furnish to the State Board of Equalization the name and~~
14 ~~address of the legal entity or publicly traded company and, if~~
15 ~~known, the names and addresses of the ownership interest~~
16 ~~transferees.~~

17 ~~(g) The State Board of Equalization shall promulgate regulations~~
18 ~~to implement this section.~~

19 ~~SEC. 4. Section 64.1 is added to the Revenue and Taxation~~
20 ~~Code, to read:~~

21 ~~64.1. (a) (1) A publicly traded company may rebut the~~
22 ~~presumption set forth in paragraph (2) of subdivision (d) of Section~~
23 ~~64 that the real property directly or indirectly owned by the~~
24 ~~company has undergone a change in ownership, as described in~~
25 ~~subdivision (d) of Section 64, by submitting to the assessor, on or~~
26 ~~before 60 days after the mailing date of a “Notice of Deemed~~
27 ~~Change in Ownership and Proposed Reappraisal” as described in~~
28 ~~Section 64.5, either of the following:~~

29 ~~(A) A statement certifying under penalty of perjury that the real~~
30 ~~property directly or indirectly owned by the company in the county~~
31 ~~has not undergone a change in ownership, as described in~~
32 ~~subdivision (d) of Section 64.~~

33 ~~(B) Evidence that demonstrates, by a preponderance, that the~~
34 ~~real property directly or indirectly owned by the company in the~~
35 ~~county has not undergone a change in ownership, as described in~~
36 ~~subdivision (d) of Section 64. On or before 60 days after the~~
37 ~~publicly traded company submits evidence pursuant to this~~
38 ~~subparagraph, the assessor shall determine and notify the publicly~~
39 ~~traded company regarding whether the presumption has been~~
40 ~~rebutted.~~

1 ~~(2) If a publicly traded company willfully misrepresents, either~~
2 ~~in the statement described in subparagraph (A) of paragraph (1)~~
3 ~~or in the evidence provided to the assessor pursuant to~~
4 ~~subparagraph (B) of that paragraph, that a change in ownership as~~
5 ~~described in subdivision (d) of Section 64 has not occurred, that~~
6 ~~company shall pay a penalty equal to the greater of (A) two~~
7 ~~thousand five hundred dollars (\$2,500) on each property directly~~
8 ~~or indirectly owned by the company in the county, or (B) 25~~
9 ~~percent of the current year's taxes on the real property directly or~~
10 ~~indirectly owned by the company in the county. This penalty shall~~
11 ~~be added to the assessment roll, be collected in the same manner~~
12 ~~as any other delinquent property taxes, and is subject to the same~~
13 ~~penalties for nonpayment.~~

14 ~~(b) The assessor may rebut the presumption that the real property~~
15 ~~directly or indirectly owned by a publicly traded company has~~
16 ~~undergone a change in ownership by submitting to the assessee,~~
17 ~~on or before 60 days after the mailing date of a "Notice of Deemed~~
18 ~~Change in Ownership and Proposed Reappraisal" as described in~~
19 ~~Section 64.5, evidence that, in the view of the assessor,~~
20 ~~demonstrates by a preponderance that the real property directly or~~
21 ~~indirectly owned by the company in the county has not undergone~~
22 ~~a change in ownership, as described in subdivision (d) of Section~~
23 ~~64.~~

24 ~~(c) (1) The real property directly or indirectly owned by a~~
25 ~~publicly traded company has undergone a change in ownership~~
26 ~~and the assessor shall reappraise the real property directly or~~
27 ~~indirectly owned by the publicly traded company and establish a~~
28 ~~new base year value for that real property if one of the following~~
29 ~~applies:~~

30 ~~(A) The publicly traded company does not provide the statement~~
31 ~~or evidence described in subdivision (a) within the time period~~
32 ~~specified in that subdivision.~~

33 ~~(B) The assessor determines that the evidence submitted by the~~
34 ~~publicly traded company under subparagraph (B) of paragraph (1)~~
35 ~~of subdivision (a) has not rebutted the presumption by a~~
36 ~~preponderance of the evidence.~~

37 ~~(2) For purposes of this subdivision:~~

38 ~~(A) The date of the change in ownership and the valuation date~~
39 ~~is the lien date of the fiscal year for which the rebuttable~~
40 ~~presumption applies. The assessor shall complete the reappraisal~~

1 of the publicly traded company's real property within three years
2 of the valuation date for which the change in ownership occurred.

3 (B) The new base year value shall be enrolled as of the valuation
4 date and there will be one supplemental assessment placed on the
5 supplemental roll and the assessee will receive one notice of
6 supplemental assessment as otherwise provided by law.

7 (C) If the new base year value resulting from the reappraisal of
8 the real property directly or indirectly owned by the publicly traded
9 company, as a result of a change in ownership as described in
10 subdivision (d) of Section 64, is less than the former base year
11 value, appropriate cancellations or refunds of tax shall be granted
12 in accordance with this division. If the new base year value is
13 greater than the former base year value, appropriate escape
14 assessments shall be imposed in accordance with this division.

15 (d) The State Board of Equalization shall promulgate regulations
16 to implement this section and shall develop and make available to
17 assessors and assessees a form to be used to rebut the presumption
18 described in paragraph (2) of subdivision (d) of Section 64.

19 SEC. 5. Section 64.5 is added to the Revenue and Taxation
20 Code, to read:

21 64.5. On or before January 31, 2011, and on or before 30 days
22 prior to the lien date of each fiscal year thereafter for which the
23 rebuttable presumption specified in paragraph (2) of subdivision
24 (d) of Section 64 applies, the assessor shall provide a written
25 "Notice of Deemed Change in Ownership and Proposed
26 Reappraisal," as developed by the State Board of Equalization, to
27 each publicly traded company that directly or indirectly owns
28 taxable real property in the county. The title of this notice shall be
29 printed in at least 12-point boldface type and the body of this notice
30 shall be printed in at least 8-point boldface type, in substantially
31 the following form:

32

33 "Notice of Deemed Change in Ownership and Proposed
34 Reappraisal"

35

36 "(a) There exists a rebuttable presumption that cumulatively
37 more than 50 percent of the total ownership interests in a publicly
38 traded company have been transferred since the last change in
39 ownership of the company's real property which results in a change

1 in ownership of all of the real property directly or indirectly owned
2 by that company.

3 (b) ~~The assessor is required to reappraise all real property owned~~
4 ~~either directly or indirectly by the publicly traded company unless~~
5 ~~the company or the assessor rebuts the presumption no later than~~
6 ~~60 days after the mailing date of this notice.~~

7 (e) ~~(1) A publicly traded company may rebut the presumption~~
8 ~~that the real property directly or indirectly owned by the publicly~~
9 ~~traded company has undergone a change in ownership by~~
10 ~~submitting to the assessor within 60 days after the mailing date of~~
11 ~~this notice either of the following:~~

12 (A) ~~A statement certifying under penalty of perjury that the real~~
13 ~~property directly or indirectly owned by the company in the county~~
14 ~~has not undergone a change in ownership, as described in~~
15 ~~subdivision (d) of Section 64 of the Revenue and Taxation Code.~~

16 (B) ~~Evidence that demonstrates, by a preponderance, that the~~
17 ~~real property directly or indirectly owned by the company in the~~
18 ~~county has not undergone a change in ownership, as described in~~
19 ~~subdivision (d) of Section 64 of the Revenue and Taxation Code.~~
20 ~~On or before 60 days after the publicly traded company submits~~
21 ~~this evidence, the assessor shall determine and notify the publicly~~
22 ~~traded company regarding whether the presumption has been~~
23 ~~rebutted.~~

24 (2) ~~If a publicly traded company willfully misrepresents, either~~
25 ~~in the statement described in paragraph (1) or in the information~~
26 ~~provided to the assessor pursuant to that paragraph, that a change~~
27 ~~in ownership as described in subdivision (d) of Section 64 of the~~
28 ~~Revenue and Taxation Code has not occurred, the company shall~~
29 ~~pay a penalty equal to the greater of (A) two thousand five hundred~~
30 ~~dollars (\$2,500) on each property directly or indirectly owned by~~
31 ~~the company in the county, or (B) 25 percent of the current year's~~
32 ~~taxes on the real property directly or indirectly owned by the~~
33 ~~company in the county. This penalty shall be added to the~~
34 ~~assessment roll and be collected like any other delinquent property~~
35 ~~taxes, and is subject to the same penalties for nonpayment.~~

36 (d) ~~The assessor may rebut the presumption that the real property~~
37 ~~directly or indirectly owned by the publicly traded company has~~
38 ~~undergone a change in ownership by submitting to the assessee,~~
39 ~~within 60 days after the mailing date of this notice, evidence that~~
40 ~~in the view of the assessor demonstrates, by a preponderance, that~~

1 the real property directly or indirectly owned by the company in
2 the county has not undergone a change in ownership, as described
3 in subdivision (d) of Section 64 of the Revenue and Taxation Code.

4 (e) If the assessee or the assessor does not rebut the presumption,
5 the assessor shall reappraise the real property directly or indirectly
6 owned by the publicly traded company and establish a new base
7 year value as of the lien date for the applicable fiscal year.”

8 SEC. 6. Section 65.1 of the Revenue and Taxation Code is
9 amended to read:

10 65.1. (a) Except for a joint tenancy interest described in
11 subdivision (f) of Section 62 and except as otherwise provided in
12 Section 64, when an interest in a portion of real property is
13 purchased or changes ownership, only the interest or portion
14 transferred shall be reappraised. Except as provided in Section 64,
15 a purchase or change in ownership of an interest with a market
16 value of less than 5 percent of the value of the total property shall
17 not be reappraised if the market value of the interest transferred
18 is less than ten thousand dollars (\$10,000) provided, however, that
19 transfers during any one assessment year shall be cumulated for
20 the purpose of determining the percentage interests and value
21 transferred.

22 (b) (1) If a unit or lot within a cooperative housing corporation,
23 community apartment project, condominium, planned unit
24 development, shopping center, industrial park, or other residential,
25 commercial, or industrial land subdivision complex with common
26 areas or facilities is purchased or changes ownership, then only
27 the unit or lot transferred and the share in the common area
28 reserved as an appurtenance of the unit or lot shall be reappraised.

29 (2) Notwithstanding any other provision of law, the increase in
30 property taxes resulting from this reappraisal shall be applied by
31 the owner of the property to the tenant-shareholder, lessee, or
32 occupant of the individual unit or lot only, and shall not be prorated
33 among all other units or lots of such property.

34 SEC. 7. If the Commission on State Mandates determines that
35 this act contains costs mandated by the state, reimbursement to
36 local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

39 SEC. 8. This act provides for a tax levy within the meaning of
40 Article IV of the Constitution and shall go into immediate effect.

- 1 ~~However, the provisions of this act shall become operative on~~
- 2 ~~January 1, 2011.~~

O