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New California Self-Reporting Rules for Certain Proposition 13 Changes in Control and Ownership of Legal Entities

Author: [Jeffrey A. Mannisto](#)

Effective January 1, 2010, California Senate Bill No. 816 requires the completion and filing of a statement on Form BOE-100-B with the State of California Board of Equalization ("BOE") within 45 days after closing of a "change in control" or "change in ownership" of a legal entity if, as of that date, that legal entity also owned or (under certain circumstances) leased an interest in California real property. The law further requires that this form be completed and filed whenever written request is made therefor by the BOE, regardless of whether a "change in control" or "change in ownership" of a legal entity in fact occurred. There is no extension of time to file this form.

Under California Revenue and Taxation Code ("RTC") Section 64(c), a Proposition 13 "change in control" of a legal entity occurs when any person or legal entity directly or indirectly increases its equity ownership in an entity owner of California real property from a level that is less than or equal to 50% to more than 50% of such entity. Under RTC Section 64(d), a Proposition 13 "change in ownership" of a legal entity occurs if the legal entity holds California real property previously excluded from reassessment because the transferring property owners received the same proportionate interest in the equity of the transferee legal entity and, thereafter, such equity holders cumulatively transfer, in one or more transactions, ownership interests in the legal entity more than 50% of their original ownership interests in such legal entity.

Failure to file the form with BOE within 45 days of such a transaction can result in an automatic penalty assessment of 10% of the taxes applicable to the new base year value of any interest in California real property owned by such legal entity (or, in the case of a failure to timely respond to a BOE request to file the form, 10% of the current year's taxes on the California real property if no change in control or change in ownership in fact occurred). Previously, the form was required to be completed and filed within 45 days after the BOE

Newsletter Editors

[Donald W. Meaders](#)
Partner
dmeaders@manatt.com
310.312.4345

[Donald J. Fitzgerald](#)
Partner
dfitzgerald@manatt.com
415.291.7420

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requested the form to avoid penalty. Further, there is no longer an automatic waiver of the penalty if the filing is made within 60 days of a late filing notice from the BOE.

As a result of the new California reporting rules, entities owning California real property (or persons acquiring interest therein) should be more proactive in evaluating the need to report to the BOE changes that may constitute a Proposition 13 change in control or change in ownership to avoid a potential for significant penalties.

If you have any questions about this newsletter, please do not hesitate to contact Jeffrey A. Mannisto in our Tax, Employee Benefits & Global Compensation group.

For additional information on this issue, contact:



Jeffrey A. Mannisto Mr. Mannisto is Co-Chair of the Firm's Tax, Employee Benefits and Global Compensation practice group. He has a broad-based tax practice in corporate, partnership and individual income tax, including choice of entity considerations, mergers and acquisitions, transactional matters, employment tax issues, tax ruling requests, and tax controversies.

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