
Legal Updates & News

Legal Updates

New Property Tax Legislation

November 2009

by [Peter B. Kanter](#), [Kirsten Wolff](#)

California Governor Schwarzenegger recently signed Senate Bill No. 816, which could result in the imposition of significant penalties on unwary taxpayers for failing to report changes in control or ownership of legal entities owning real property in California.

New 10% Penalty for Failure to File Change in Control Statement Within 45 Days of a Change in Control

Under prior law, whenever there was a change in control or ownership of any legal entity, including a corporation, partnership, or limited liability company, the person or entity that acquired ownership or control was required to file a signed change in ownership statement with the State Board of Equalization ("SBE"). However, no penalty was imposed for not filing the statement unless the SBE requested the statement from the taxpayer in writing and the taxpayer failed to file the statement within 45 days of that request. Moreover, under prior law the 10% penalty for failing to submit a statement in response to a written request was automatically abated if the person or entity filed the statement within 60 days of being notified of the penalty.

Under the revised law, a person or entity that acquires ownership or control of a legal entity is required to file the change in ownership statement with the SBE within 45 days after the change in ownership or control. The 10% penalty will be automatically imposed for failure to file the statement within 45 days, even when no written request for the statement has been received by the taxpayer.

In addition, the penalty will no longer automatically be abated if the statement is filed

Related Practices:

- [Real Estate](#)
- [State and Local](#)
- [Tax](#)

within 60 days after notice of the penalty was received. Rather, in order to obtain an abatement of the penalty, the taxpayer will have to apply to the county board of supervisors where the entity's property is located and establish that the failure to file the statement was due to reasonable cause and not willful neglect.

Documentary Transfer Tax Provisions

SB 816 also requires the county assessor to provide information to the county recorder when the recorder is conducting an investigation to determine whether a documentary transfer tax is due, and it adds authorization for an administrative appeal process for resolution of disputes related to local documentary transfer taxes. The new law also provides that the value of a property as determined for documentary transfer tax purposes is not binding on a determination of the value of the property for property tax purposes.

If you have any questions regarding SB 816 or the California property tax reporting requirements, you may contact Peter Kanter in Morrison & Foerster's San Francisco office at pkanter@mofo.com or (415) 268-6005.