

## INSTRUCTIONS FOR COMPLETING BOE-100-B STATEMENT OF CHANGE IN CONTROL AND OWNERSHIP OF LEGAL ENTITIES

### Filing Requirements for Legal Entities

Whenever there is a **change in control**, pursuant to section 64(c) of the Revenue and Taxation Code (R&TC) or a **change in ownership** pursuant to R&TC section 64(d) of a legal entity *and* the legal entity owned or leased (see definition of interest in real property) an interest in California real property as of that date, the person or legal entity acquiring **ownership control** or the legal entity that has undergone a **change in ownership** must file the BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities* (statement) with the Board of Equalization (BOE) at its office in Sacramento within 45 days of the change in control or ownership (R&TC section 480.1 and 480.2). In addition, any legal entity is required to file a statement with the BOE within 45 days of the date of the BOE's request regardless of whether a change in control or ownership of the legal entity has occurred.

*This statement must be filed with the County-Assessed Properties Division, Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0064.*

### Legal Entity Information and Resources

Statements are processed by staff in the BOE's Legal Entity Ownership Program (LEOP). Further information regarding legal entities, links to relevant statutes, Property Tax Rules, and annotated letters are available on the BOE's website at [www.boe.ca.gov](http://www.boe.ca.gov). In addition, the LEOP web page can be accessed by selecting (1) Taxes & Fees, (2) Property Tax, and (3) Legal Entity Ownership Program. This page provides an overview of the LEOP program, definitions of terms, access to the statement and Frequently Asked Questions (FAQs). You may also contact the LEOP staff at 916-323-5685.

### Penalty Information

If a person or legal entity fails to file the statement timely with the BOE as required by R&TC section 480.1 and 480.2, the penalty pursuant to R&TC section 482 is 10 percent of the taxes applicable to the new base year value reflecting the change in control or change in ownership of the real property owned by the corporation, partnership, limited liability company or legal entity; or 10 percent of the current year's taxes on that property if no change in control or change in ownership occurred.

### Change in Control or Change in Ownership of Legal Entities

**Change in Control** – R&TC 64(c) – A *change in control* occurs when any person or legal entity obtains more than 50 percent of the ownership interest in a legal entity; control may be obtained directly or indirectly. If a legal entity has undergone a change in control, *all* interests in real property\* located in California and held by the *acquired* legal entity (or any legal entity(ies) under its ownership control) as of the date of the change in control is subject to reassessment.

For purposes of determining whether a legal entity has undergone a change in control, the acquisition of ownership interest is considered. In the case of corporations, an ownership interest is represented by voting stock. In the case of partnerships or limited liability companies, an ownership interest is represented by the total interest in capital *and* profits.

**Change in Ownership** – R&TC section 64(d) – A *change in ownership* occurs when cumulatively more than 50 percent of the original co-owners' interests in the legal entity is transferred; original co-owner status is created when a transfer of property is excluded from reassessment under R&TC section 62(a)(2) in a prior transaction. If a legal entity has undergone a change in ownership, then *only* the interest in real property\* that was previously excluded from reassessment under R&TC section 62(a)(2) is subject to reassessment as of the date of the change in ownership. If, however, a legal entity has *also* undergone a change in control under R&TC section 64(c) and there has been a transfer of cumulatively more than 50 percent of the original co-owners' interests, then *all* interests in real property\* located in California and owned by the legal entity (or any legal entity(ies) under its ownership control) as of the date of the change in control is subject to reassessment.

**\*Interests in real property** – For change in control and change in ownership purposes, interest in real property includes any of the following:

1. Land, improvements (i.e., buildings and structures), or fixtures OWNED;
2. Land, improvements (i.e., buildings and structures), or fixtures HELD UNDER LEASE from a private owner if the remaining term of the lease, including written renewal options, exceeds 35 years;
3. Land, improvements (i.e., buildings and structures), or fixtures HELD UNDER LEASE from a public owner (i.e., any agency of local, state, or federal government) for any term; or
4. Mineral rights, including working interest in oil, gas and geothermal steam-producing properties owned or held on lease for any term, whether in production or not.

*Note:* It does *not* include personal property owned, such as personal computers or office equipment.

## COVER PAGE

**Name and Address of Legal Entity:** Provide the name and address of the legal entity *filing* the statement.

**Legal Entity Identification No.:** For domestic and foreign (out of state or country) corporations and limited liability companies, provide the ID Number assigned by the California Secretary of State; for partnerships provide the Federal Employer Identification Number (FEIN).

### Question 1:

Provide the year in which the *filing* legal entity (or any legal entity under its ownership control) acquired ownership control (more than 50 percent interest) of any other legal entity. In the case of corporations, an ownership interest is represented by voting stock. In the case of partnerships or limited liability companies, an ownership interest is represented by the total interest in capital *and* profits.

Answer YES to question 1 only if *both* conditions below are true:

1. At any time since the indicated date, the filing legal entity (or any legal entity(ies) under its ownership control) acquired more than 50 percent of the ownership interest in any *other* legal entity(ies); AND
2. On the date of acquisition, the *acquired* legal entity(ies) (or any legal entity(ies) under its ownership control) held an *interest in California real property*.

#### EXAMPLE

Facts of transaction:

- ABC Corporation holds 48 percent of the voting stock in XYZ Corporation.
- On February 20, 2010, ABC Corporation acquired an additional 3 percent of XYZ's voting stock (for a total of 51 percent).
- As of February 20, 2010, XYZ Corporation held an ownership interest in vacant land located in California.

Under these facts, question 1 should be answered YES, since both conditions have been met: (1) ABC Corporation acquired more than 50 percent of the ownership interest in *another* legal entity (XYZ Corporation) and (2) the *acquired* legal entity (XYZ Corporation) held an ownership interest in real property (vacant land) in California as of the date of acquisition (February 20, 2010).

### Question 2:

Provide the year in which a person or legal entity acquired ownership control (more than 50 percent interest) in the *filing* legal entity (or any legal entity under its ownership control).

*Note:* In the case of corporations, an ownership interest is represented by voting stock. In the case of partnerships or limited liability companies, an ownership interest is represented by total interest in capital *and* profits.

Answer YES to question 2 only if *both* conditions below are true:

1. At any time since the indicated date, a person or a legal entity obtained more than 50 percent of the ownership interest in the filing legal entity (or any legal entity(ies) under its ownership control); AND
2. On the date of acquisition, the *acquired* (filing) legal entity(ies) (or any legal entity(ies) under its ownership control) held an interest in California real property.

#### EXAMPLE

Facts of transaction:

- The BOE sent BOE-100-B to Partnership B regarding events occurring since January 1, 2010.
- As of January 5, 2010, Partnership A held no interest in Partnership B, which owned a single-family residence in California.
- On January 20, 2010, Partnership A acquired a 51 percent interest in the capital and profits of Partnership B.

Under these facts, question 2 should be answered YES, since *both* conditions have been met: (1) Partnership A acquired more than 50 percent of the ownership interest in Partnership B and (2) the *acquired* legal entity (Partnership B) held an ownership interest in real property (single-family residence) in California as of the date of acquisition (January 20, 2010).

**Question 3:**

Answer YES to question 3 only if *both* conditions below are true:

1. Since March 1, 1975, an interest in real property has been transferred to the *filing* legal entity in a transaction that was excluded from reassessment pursuant to R&TC section 62(a)(2)\*\*; *and*
2. After such transfer, the *original co-owners* \*\*\* have cumulatively transferred in one or more transactions more than 50 percent of their interests in the filing legal entity.

**\*\*Revenue and Taxation Code Section 62, Subdivision (a)(2)**

Under this provision, a transfer of real property to a legal entity does not result in a reassessment if the transfer results in merely a change in the method of holding title and the proportional ownership interests in the real property are exactly the same before and after the transfer.

**EXAMPLE:**

A transfer of real property from equal co-tenants A, B, and C to XYZ Corporation, where after the transfer A, B, and C each hold  $33\frac{1}{3}$  percent of the voting shares of XYZ Corporation, is deemed to be merely a change in the method of holding title, and therefore, does not result in a reassessment of the real property transferred.

**\*\*\*Original Co-owners**

After a transfer of real property that qualifies for exclusion from reassessment under R&TC section 62(a)(2), the person(s) or legal entity(ies) holding ownership interests in the legal entity immediately after the transfer are considered "original co-owners" for purposes of tracking subsequent transfers of the interests held by them. When such transfers cumulatively exceed 50 percent, the real property previously excluded from reassessment under R&TC section 62(a)(2), is deemed to undergo a change in ownership, and is, therefore, subject to reassessment under R&TC section 64(d).

**EXAMPLE:**

After the transfer described above, A, B, and C are deemed to be "original co-owners" for purposes of tracking subsequent transfers by them of their newly obtained interests in XYZ Corporation. If A, B, or C subsequently transfer more than 50 percent of their interests *in one or more* transactions, the real property previously excluded from reassessment under R&TC section 62(a)(2) will be subject to reassessment on the date of the transaction that caused the 50 percent threshold to be exceeded.

**Certification**

Complete the certification by signing the statement. Include the title of the person signing and enter the date signed. The statement must be signed either by an officer, partner, or an employee or agent who has been designated in writing by the board of directors, partnership, limited liability company, or other entity to sign such statements on its behalf.

*Note: An unsigned statement is not considered complete and you may be subject to penalty.*

**SCHEDULE A**

1. Complete one Schedule A for each legal entity acquired and a separate schedule for every legal entity under its ownership control.
2. Only identify the legal entity(ies) that hold an interest in California real property as of the date of the change in control.
3. If a consolidated income tax return is filed, provide the name(s) of the legal entity(ies) filing in that consolidated group.

**Item 1(a):**

Provide the requested information pertaining to the *acquired* legal entity and any legal entity under its ownership control.

**Item 1(b):**

Provide the requested information pertaining to the *acquiring* person or legal entity.

**Item 2(a):**

Provide the date ownership control was obtained (i.e. date of acquisition).

**Item 2(b):**

Provide a description of the transaction.

**Item 3(a):**

Provide the name of the person or legal entity and the percentage interest held before and after the date of acquisition of the *acquired* legal entity.

*Note: If the interest in the legal entity is held by a trust, indicate whether the trust is revocable or irrevocable and identify the beneficiaries of the trust.*

**Item 4:**

Indicate whether the acquisition of ownership interests in the acquired legal entity was between spouses or registered domestic partners (R&TC sections 63 or 62(p) provide these exclusions from change in ownership).

**Item 5:**

Indicate whether the transfer of more than 50 percent of the ownership interests to the *acquiring* legal entity was merely a change in the method of holding title and the proportionate ownership interests remained exactly the same *before* and *after* the change (R&TC section 62(a)(2) provides this exclusion from change in ownership).

**Item 6:**

This section is applicable to corporate reorganizations. By its express language, the exclusion provided for under R&TC section 64(b) is limited to corporations; therefore, the exclusion does not apply to other legal entities such as limited liability companies or partnerships. If the legal entity involved in the transaction is not a corporation, check the box and proceed to Item 7.

**Item 6(a):**

Refer to Internal Revenue Code section 368 to verify if the transfer of ownership interests qualifies as a non-taxable reorganization.

**Item 6(b):**

Indicate whether the transfer of ownership interests qualifies as a non-taxable reorganization under California statutes.

**Item 6(c):**

Indicate whether the transfer of ownership interests was a corporate reorganization where all of the corporations involved are members of an *affiliated group*\*\*\*\* both before and after the date of the change in control.

\*\*\*\*Affiliated Group – For change in ownership purposes, affiliated group means one or more chains of corporations connected through stock ownership with a common parent corporation if: (1) 100 percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations, and (2) the common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(R&TC section 64(b) provides this exclusion from change in ownership.)

**Item 7 – Real Property Schedule (Table A & Table B):**

Identify the *interest in real property* (refer back to page 1 of the instructions for the definition of interest in real property) in California owned or leased by the *acquired* legal entity (or any legal entity(ies) under its ownership control) as of the date of the change in control.

**SCHEDULE B**

**Item 1:**

Provide the date(s) of transfer(s) and a description of the transaction in which the real property(ies) was transferred into the *filing* legal entity that was previously excluded from reassessment under R&TC section 62(a)(2), which created the original co-owner status.

**Item 2 – Real Property Schedule (Table A & Table B):**

Identify the *interest in real property* (refer back to page 1 of the instructions for the definition of interest in real property) in California owned (Table A) or leased (Table B) by the legal entity that was previously excluded from reassessment pursuant to R&TC section 62(a)(2).

**Item 3(a):**

Provide a description of the transfer(s) that result in cumulatively a transfer of more than 50 percent of the original co-owners' interests in the *filing* legal entity, since the date original co-owner status was created. Refer back to question 3 of the instructions for an example.

**Item 3(b):**

Provide the date(s) the original co-owner(s) transferred interest in the legal entity, name of the original co-owner(s), percentage interest transferred by the original co-owner(s), name of the current owner(s) and the percentage interest held by the current owner(s). Current owner(s) is a party(ies) that holds an ownership interest in the legal entity *after* the date of the last transfer.

**Item 4:**

Indicate whether the transfer of original co-owner(s)' ownership interests in the *filing* legal entity was between spouses or registered domestic partners (R&TC sections 63 or 62(p) provide an exclusion from change in ownership).

**Item 5:**

Indicate whether the transfer of more than 50 percent of the original co-ownership(s)' ownership interests to the *filing* legal entity was merely a change in the method of holding title and the proportionate ownership interests remained exactly the same *before* and *after* the change (R&TC section 62(a)(2) provides an exclusion from change in ownership).