

REGISTERED DOMESTIC PARTNERS

Rights & Responsibilities under California Property Tax Law

Effective January 1, 2006, registered domestic partners (RDP) receive the same exclusion from change in ownership and reassessment or transfers between registered domestic partners that spouses receive under the interspousal exclusion. Section 62(p)(1) of the Revenue and Taxation Code provides that the following are excluded from change in ownership.

- ◇ Transfers to a trustee for the beneficial use of a registered domestic partner, or the surviving registered domestic partner of a deceased transferor, or by a trustee of such a trust to the registered domestic partner of the Trustor.
- ◇ Transfers that take place upon the death of a registered domestic partner.
- ◇ Transfers to a registered domestic partner or former registered domestic partner in connection with a property settlement agreement or decree of dissolution of a registered domestic partnership or legal separation.
- ◇ The creation, transfer, or termination, solely between registered domestic partners of any co-owner's interest.
- ◇ The distribution of a legal entity's property to a registered domestic partner or former registered domestic partner in exchange for the interest of the registered domestic partner in such entity, in connection with a property settlement agreement or a decree of dissolution of a registered domestic partnership or legal separation.

The list is non-exclusive: any transfer between registered domestic partners is excluded from the meaning of "change in ownership."

Who May Enter Into A Registered Domestic Partnership?

Family Code section 297 provides that two natural persons may enter into a registered domestic partnership when both persons file a Declaration of Domestic Partnership with the Secretary of State and all of the following requirements are met:

- ◇ Both persons have a common residence.
- ◇ Neither person is married nor is a member of another registered domestic partnership that has not been terminated, dissolved, or annulled.
- ◇ The two persons are not related by blood in a way that would prevent them from being married to each other.
- ◇ Both persons are over the age of 18 and are capable of consenting to the partnership.
- ◇ Both persons are members of the same sex, or
- ◇ Both persons are members of the opposite sex and at least one is over the age of

62 and meets the federal requirements for either old-age insurance benefits or for aged individuals.

The term "registered domestic partner" does not apply to legal entities, including a single member limited liability company. Thus, even though a single-member limited liability company is disregarded for federal tax reporting purposes, it is still treated as a separate legal entity under California domestic partnership law.



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Does the Exclusion Also Apply To Same Sex Married Couples?



For marriages of persons of the same sex, marriages entered into in California after 5:00 p.m. on June 16, 2008 and before November 5, 2008 are recognized as valid under a California Supreme Court Ruling, (Strauss v. Horton, 46 Cal. 4th 364). The Assessor will exclude transfers of real property between such persons as inter-spousal. Only those same sex marriages entered into between the specified dates are recognized under California law and only those marriages qualify for the interspousal exclusion.

“A DOMESTIC PARTNERSHIP IS ESTABLISHED WHEN PERSONS MEETING THE CRITERIA SPECIFIED BY FAMILY CODE (ARE MET)”

What is the Application Process for the Registered Domestic Partner Exclusion?

No separate application is necessary. Similar to the interspousal exclusion, the Registered Domestic Partner Exclusion is granted automatically. The State Board of Equalization has amended the commonly used Preliminary Change of Ownership Report and Change of Ownership Statement forms to identify both transfers between married couples and those be-

tween registered domestic partners. In both cases, the transfer is excluded from reassessment.

How May I Enter A Registered Domestic Partnership?

Provisions governing domestic partnerships are found in the California Family Code, commencing with section 297. More information may be found online at the Secretary of State's Domestic Partners Registry website <http://www.sos.ca.gov/dpreistry/>

A domestic partnership is established when persons meeting the criteria specified by Family Code

Section 297 file a Declaration of Domestic Partnership (Form NP/SF DP-1) with the Secretary of State. A copy of the declaration and a Certificate of Registration of Domestic Partnership will be returned to the partners after the declaration is filed.

Please refer to DP Forms and Fees for filing instructions and domestic partnership forms. This information may also be

found on the Secretary of State's Domestic Partners Registry website <http://www.sos.ca.gov/dpreistry/>



How May a Registered Domestic Partnership be Terminated?

The domestic partnership can be terminated under certain conditions, as provided by Family Code section 299, by filing a Notice of Termination of Domestic Partnership with the Secretary of State. The domestic partnership shall be terminated six months after the date of filing of said notice, provided that neither party has, before the effective date, filed with the Secretary of State a Revocation of Termination of Domestic Partnership (Form NP/SF DP-3), as provided by Family Code section 299. If all conditions of

Family Code section 299 are not met, domestic partnerships must be terminated through proceedings in California Superior Court.

The California Supreme Court decision issued on May 15, 2008, regarding same-sex marriages did not invalidate or change any of the Family Code statutes relating to registered domestic partners. Until a Notice of Termination of Domestic Partnership (Form NP/SF DP-2) is filed with the office of the Secretary of State, a registered domestic partnership

will remain active on the California's Domestic Partnership Registry. The office of the Secretary of State will continue to process Declarations of Domestic Partnership, Notices of Termination of Domestic Partnership and other related filings as permitted by the domestic partnership law. If you have specific questions about how the Supreme Court's decision may apply to your circumstances, you should consult with private legal counsel.

What are the Property Tax Consequences of the Termination of a Registered Domestic Partnership?

Similar to the interspousal exclusion, Section 62(p) of the Revenue and Taxation Code applies to any transfer of real property to a registered domestic partner or former registered domestic partner that is in connection with a property settlement agreement, decree of dissolution of a registered domestic partnership, or legal separation.

This includes situations where the courts have, through retained jurisdiction, left property disposition matters open or modifiable in the future. Thus, "in connection with" includes post-dissolution transfers provided for in the terms of a settlement agreement. Transfers in connection with the dissolution are not reassessed. Where property rights have been definitely and

permanently settled and the decree of dissolution has become final, however, Section 62(p) will not apply to any subsequent transfers between the former partners. Transfers occurring after the final dissolution are NOT exempt from reassessment.

“THE DOMESTIC PARTNERSHIP CAN BE TERMINATED UNDER CERTAIN CONDITIONS...”

What are the Property Tax Consequences of the Death of a Registered Domestic Partner?

For spouses, transfers of real property or legal entity interests that take effect upon the death of a spouse are excluded from the definition of change in ownership under R&T Code Section 63(b). Such transfers include transfers by will, intestate succession, and trust.

For registered domestic partners, transfers of real property or legal entity interests that take effect upon the death of a registered domestic partner are excluded from the definition of change in

ownership if the date of death occurs on or after January 1, 2006. (R&T Code, Section 62(p)(1)(B)) This exclusion applies to all transfers resulting from the death of a registered domestic partner, including transfers by will, intestate succession, or trust. Additionally, the inheritance of property via intestate succession from one's registered domestic partner is excluded from change in ownership if the date of death occurred on or after November 13, 2003. (SBE

Rule
462.240(k))



THE DEATH OF A REGISTERED DOMESTIC PARTNER MAY BE EXCLUDED

Does the Domestic Partnership Exclusion Apply to Same Sex Unions Sanctioned by Other States?

Under Family Code section 299.2, California will recognize a same sex legal union, other than a marriage, which is validly formed in another jurisdiction outside California and is substantially equivalent to a California registered domestic partnership, regardless of whether it bears the name "domestic

partnership." Thus, transfers between such persons also qualify for the Registered Domestic Partner Exclusion.

THE RIGHTS AND RESPONSIBILITIES OF DOMESTIC PARTNERS AND/OR SAME SEX COUPLES IS AN EVOLVING AREA IN MANY REGARDS OF CALIFORNIA LAW.



Legal Disclaimer:

The rights and responsibilities of domestic partners and/or same sex couples is an evolving area in many regards of California Law. This publication reflects the Assessor's policies and procedures in effect based on statutes in effect at the time of this publication. Future publications and updates to the assessor website, forms etc. will be published as needed based on newly adopted legislation, legal findings etc. If you are contem-

plating transferring real property or a mobile home, the Assessor's office recommends that you contact your attorney and/or accountant prior to the transfer.

Transferring an ownership interest may have unintended and potentially unwelcome financial and legal consequences.

The information contained herein is not intended to provide legal advice; rather it is to

inform registered domestic partners of important changes in the law.



For More Information:

You may also contact us for any other general property tax questions, on a 24 hours a day basis, in the following ways:

- ◆ Assessor's Website: To research comparable sales, verify valuations, download forms, learn how appraisals are made, and more, visit: <http://assessor.lacounty.gov>
- ◆ Assessor's Email: Send your questions, comments, and suggestions to: helpdesk@assessor.lacounty.gov
- ◆ Los Angeles County Property Tax Website: General information regarding property taxes, including how to read your tax bill and where to find answers to your questions. Visit: <http://www.lacountypropertytax.com>
- ◆ Property Information Hotline: Minimal wait times, averaging less than a minute. Fast transfers to expert staff during normal business hours. Just call toll free 1.888.807.2111.
- ◆ Automated Interactive Voice System: Information on valuations and taxes can be obtained by entering the Assessor Identification Number from a property tax bill.
- ◆ Call 213.974.3838 or the toll free number above.



Si desea ayuda en Espanol, llame al numero 1.888.807.2111



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and Property*

Assessor's Public Service Locations

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North District Office

13800 Balboa Boulevard
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1401 E. Willow Street
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