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**Status of
Property Tax Problem**



Presented by Bob Bouchier

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Overview


- Background
- Initial Momentum
- CSCA's Response:
 - Legal
 - Legislative
 - Communications
- Change in Momentum
- BOE Attorney Letter
- Next Steps

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Property Tax Problem Background

California has a budget deficit of approximately \$20 billion.

State and local governments are pressured to find additional tax revenues.



Proposition 13 Background

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Under Proposition 13:

Club members have been treated akin to shareholders in a corporation:

- On typical club member transfers, no property tax implications
- On stock transfers, no change in ownership of real property
- Exception if change of control, more than fifty percent
- Key terms: "change in ownership"

The Property Tax Rights Issue – Initial Momentum

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- In late 2009, the California Assessors Association asked the Board of Equalization if a golf club membership transfer would indicate "a change of ownership" under Proposition 13
- If so, reassessment of club property is triggered
- Property taxes in many clubs would likely increase greatly
- Club would face uncertainties of annual reassessments

The Property Tax Rights Issue – Initial Momentum

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**The Property Tax Rights Issue –
CSCA's Response**

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California State Club Association has a full legal, legislative and communications strategy in place:

- **CSCA submitted our legal position to BOE on April 13, 2010**
- **CSCA representatives met with BOE staff to discuss our submission on May 6, 2010**

**The Property Tax Rights Issue –
Political Response**

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CSCA is preparing to intervene in the Legislature if problems are raised due to budget pressures.

CSCA is currently monitoring five “skeleton bills”:

- **Three in the Assembly**
- **Two in the Senate**

**The Property Tax Rights Issue --
Communications Response**

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It is critical that we educate and inform CSCA members and other club members. It is important that we speak with one voice:

- **Explain strategy**
- **Transparency with defense funds**
- **Coalition building**

We need to prepare for renewed media attention:

- **Economic benefit**
- **Community service opportunities**
- **Much needed open space throughout California, home to endangered species**
- **Healthy past-times**

The Property Tax Rights Issue – Change in Momentum

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State of California Board of Equalization
 Legal Services Unit
 Telephone (916) 227-2222

M e m o r a n d u m

To: Mr. Dean Kester (DRC-65)
 Chief, County Assessor Properties Division Date: June 3, 2010

From: Richard S. Moon [Signature]
 Tax Counsel IV

Subject: Request for Legal Opinion – Change in Ownership, Private Golf Club Membership
 (Assignment No. 89-328)

This is in response to your November 23, 2009, memorandum to Assistant Chief Counsel Randy Firth requesting our opinion as to the change in ownership treatment of real property owned by private golf clubs, classified by your memorandum as "private membership organizations," when there is a transfer of membership in the organization.

Our understanding of the private golf clubs in California are most commonly organized as nonprofit mutual benefit corporations (former mutual benefit corporations or corporations) under the California Corporation Code. An exception is the case of a club where a mutual benefit corporation has made a choice to qualify, then articles of incorporation and bylaws to allow for members a multitude of rights that may potentially include specific rights to real property owned by the corporation. For that reason, if members are granted rights to real property such that beneficial ownership of property is conveyed, a transfer of such membership would be considered a change in ownership of the property to which the membership gives rights.

However, if membership does not convey an interest in real property then no beneficial ownership, which is a term limited to real property, the transfer of a membership interest in a club would not be a change in ownership of real property. In fact, the club agreement or articles of incorporation and California Code sections 66, 66.1, 66.2, 66.3, 66.4, 66.5, 66.6, 66.7, 66.8, 66.9, 66.10, 66.11, 66.12, 66.13, 66.14, 66.15, 66.16, 66.17, 66.18, 66.19, 66.20, 66.21, 66.22, 66.23, 66.24, 66.25, 66.26, 66.27, 66.28, 66.29, 66.30, 66.31, 66.32, 66.33, 66.34, 66.35, 66.36, 66.37, 66.38, 66.39, 66.40, 66.41, 66.42, 66.43, 66.44, 66.45, 66.46, 66.47, 66.48, 66.49, 66.50, 66.51, 66.52, 66.53, 66.54, 66.55, 66.56, 66.57, 66.58, 66.59, 66.60, 66.61, 66.62, 66.63, 66.64, 66.65, 66.66, 66.67, 66.68, 66.69, 66.70, 66.71, 66.72, 66.73, 66.74, 66.75, 66.76, 66.77, 66.78, 66.79, 66.80, 66.81, 66.82, 66.83, 66.84, 66.85, 66.86, 66.87, 66.88, 66.89, 66.90, 66.91, 66.92, 66.93, 66.94, 66.95, 66.96, 66.97, 66.98, 66.99, 67, 67.1, 67.2, 67.3, 67.4, 67.5, 67.6, 67.7, 67.8, 67.9, 67.10, 67.11, 67.12, 67.13, 67.14, 67.15, 67.16, 67.17, 67.18, 67.19, 67.20, 67.21, 67.22, 67.23, 67.24, 67.25, 67.26, 67.27, 67.28, 67.29, 67.30, 67.31, 67.32, 67.33, 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68.78, 68.79, 68.80, 68.81, 68.82, 68.83, 68.84, 68.85, 68.86, 68.87, 68.88, 68.89, 68.90, 68.91, 68.92, 68.93, 68.94, 68.95, 68.96, 68.97, 68.98, 68.99, 69, 69.1, 69.2, 69.3, 69.4, 69.5, 69.6, 69.7, 69.8, 69.9, 69.10, 69.11, 69.12, 69.13, 69.14, 69.15, 69.16, 69.17, 69.18, 69.19, 69.20, 69.21, 69.22, 69.23, 69.24, 69.25, 69.26, 69.27, 69.28, 69.29, 69.30, 69.31, 69.32, 69.33, 69.34, 69.35, 69.36, 69.37, 69.38, 69.39, 69.40, 69.41, 69.42, 69.43, 69.44, 69.45, 69.46, 69.47, 69.48, 69.49, 69.50, 69.51, 69.52, 69.53, 69.54, 69.55, 69.56, 69.57, 69.58, 69.59, 69.60, 69.61, 69.62, 69.63, 69.64, 69.65, 69.66, 69.67, 69.68, 69.69, 69.70, 69.71, 69.72, 69.73, 69.74, 69.75, 69.76, 69.77, 69.78, 69.79, 69.80, 69.81, 69.82, 69.83, 69.84, 69.85, 69.86, 69.87, 69.88, 69.89, 69.90, 69.91, 69.92, 69.93, 69.94, 69.95, 69.96, 69.97, 69.98, 69.99, 70, 70.1, 70.2, 70.3, 70.4, 70.5, 70.6, 70.7, 70.8, 70.9, 70.10, 70.11, 70.12, 70.13, 70.14, 70.15, 70.16, 70.17, 70.18, 70.19, 70.20, 70.21, 70.22, 70.23, 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81.82, 81.83, 81.84, 81.85, 81.86, 81.87, 81.88, 81.89, 81.90, 81.91, 81.92, 81.93, 81.94, 81.95, 81.96, 81.97, 81.98, 81.99, 82, 82.1, 82.2, 82.3, 82.4, 82.5, 82.6, 82.7, 82.8, 82.9, 82.10, 82.11, 82.12, 82.13, 82.14, 82.15, 82.16, 82.17, 82.18, 82.19, 82.20, 82.21, 82.22, 82.23, 82.24, 82.25, 82.26, 82.27, 82.28, 82.29, 82.30, 82.31, 82.32, 82.33, 82.34, 82.35, 82.36, 82.37, 82.38, 82.39, 82.40, 82.41, 82.42, 82.43, 82.44, 82.45, 82.46, 82.47, 82.48, 82.49, 82.50, 82.51, 82.52, 82.53, 82.54, 82.55, 82.56, 82.57, 82.58, 82.59, 82.60, 82.61, 82.62, 82.63, 82.64, 82.65, 82.66, 82.67, 82.68, 82.69, 82.70, 82.71, 82.72, 82.73, 82.74, 82.75, 82.76, 82.77, 82.78, 82.79, 82.80, 82.81, 82.82, 82.83, 82.84, 82.85, 82.86, 82.87, 82.88, 82.89, 82.90, 82.91, 82.92, 82.93, 82.94, 82.95, 82.96, 82.97, 82.98, 82.99, 83, 83.1, 83.2, 83.3, 83.4, 83.5, 83.6, 83.7, 83.8, 83.9, 83.10, 83.11, 83.12, 83.13, 83.14, 83.15, 83.16, 83.17,

The Property Tax Rights Issue –
Richard Moon Letter

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Golf clubs usually are non-profit, mutual benefit corporations (NPMBC's)

- Club membership equates to ownership interest
- No “change in ownership” if member has mere license or right to use club-owned property
- No “change in ownership” if member only has right to vote and right to dissolution proceeds
- Similar to stockholder rights in a corporation

The Property Tax Rights Issue –
Richard Moon Letter

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Change in Ownership only if transfer conveys beneficial ownership interest in real property

- CIO if NPMBC grants sufficient, current ownership rights in property. To determine:
- Must review bylaws and articles of incorporation to determine
 - No such review in fishing club opinion therefore Moon recommends that it be deleted from the BOE annotations

The Property Tax Rights Issue –
Richard Moon Letter

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Change in Ownership might grant rights to a specific, identifiable portion of property

- In hunting club case, members had “incidents of ownership”:
- Members home site permit included right to possess a lot:
 - Member had exclusive rights to use and develop
 - Member had right to buy and sell

**The Property Tax Rights Issue –
Significant Footnote**

16

**BOE does not believe that county assessors
will need to verify that:**

- **NPMBC has not transferred specific rights
in property to members**

**The Property Tax Rights Issue –
Next Steps**

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**The Momentum has shifted, but CSCA is
not done yet.**

**The Property Tax Rights Issue –
Richard Moon Letter**

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**Moon's opinion currently is a single letter
ruling from a single BOE lawyer:**

- **Unclear whether BOE Property Tax
Department agrees**
- **Unclear whether BOE members will agree
with their staff**

**The Property Tax Rights Issue –
Next Steps**

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CSCA hopes that Moon’s opinion becomes an “annotation”:

- Annotations reflect consensus of BOE and carry influence in courts
- CSCA should participate in drafting

**The Property Tax Rights Issue –
Next Steps**

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Need to focus on BOE Handbook language regarding “change in ownership”

- BOE draft pending
- Comments due 7/30/10
- CSCA participating

Need to decide whether to pursue rule-making process within BOE:

- Property tax rule may provide protection
- It is a lengthy process and may be politicized

**The Property Tax Rights Issue –
Next Steps**

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The Momentum has shifted, but clubs and CSCA are not done yet:

- Moon’s opinion says change in ownership may depend on club’s bylaws and articles
- Clubs may want to consider legal review of bylaws

The Property Tax Rights Issue – Next Steps

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Clubs Need and CSCA is Providing:

- Legal representation in Sacramento
- Lobbyist in BOE and Legislature
- Professional communications advice to position clubs and deal with media

The Property Tax Rights Issue – How You Can Help

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- The effort needs your financial help
- CSCA has a separate fund and committee to address the property tax challenge
- If you have any questions, or receive any media inquiries, please contact CSCA

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About California State Club Association

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CSCA, organized in 1970, is a California nonprofit, mutual benefit corporation.


It currently has over 100 members all of which are nonprofit private clubs and which include many of the leading clubs of the State. Its purpose is to serve the club community.

CSCA is the only entity that speaks for its member clubs at the State level.

www.caclubs.org



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**Status of
Property Tax Problem**

Presented by Bob Bouchier
