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# HOW TO AVOID UNINTENDED PROPERTY TAX REASSESSMENTS

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## *LEASES 35 YEARS OR LONGER COULD TRIGGER PROPERTY TAX REASSESSMENTS, BUT GARY GLICK OF COX, CASTLE & NICHOLSON LLP HAS ADVICE ON HOW TO AVOID TRIGGERING A REASSESSMENT.*

PRINT REPRINTS

Properties with 35-year leases could be subject to unexpected property tax reassessment costs, according to **Gary Glick**, a partner at **Cox, Castle & Nicholson**. While these leases can trigger reassessments, there are ways to avoid it. We sat down with Glick for an exclusive interview to talk about real property tax, why reassessments are triggered and how they can be avoided.

***GlobeSt.com: Under California law, when is real property taxed? What percentage of its assessed value is taxed?***

***Gary Glick:*** With some exceptions for items such as voter approved debt, real property in California is taxed annually at a maximum rate of 1% of its assessed value. Unless and until a change of ownership occurs, annual increases on a real property's assessed value is capped at 2%.

***GlobeSt.com: What lease transactions trigger a reassessment? What are the consequences?***

***Glick:*** Although most real estate professionals fully understand that a sale of property is almost always considered a change of ownership, which will cause a reassessment of real property to its then fair market value, many do not realize that a lease of 35 years or more, including options, is considered a change of ownership. In my many years of practice I have seen numerous leases of exactly 35 years including options. The amount of real property taxes that could have been saved had the lease term been 34 years and 11 months is often significant.

***GlobeSt.com: What are ways landlords can avoid triggering a reassessment in connection with a new lease?***

***Glick:*** Certain long-term ground leases will always exceed 35 years, in which case a reassessment of the real property cannot be avoided. However, in most cases, leases contemplated to be between 35 and 40 years can be structured to be leases of 34 years and 11 months. The savings in real property taxes to a landlord and tenant in situations where the property may be under the same ownership for 20 to 50 years could range in the millions.

***GlobeSt.com: What happens to leases 35 years of more?***

***Glick:*** The real property that is leased to the tenant, which may include portions of common area utilized by the tenant, will be reassessed to the then fair market value of the real property. In addition, if the leasehold interest is transferred when the remaining lease term exceeds 35 years, the real property will once again be reassessed to its then fair market value. Finally, upon the expiration of the term of the lease, the real property will again be reassessed at its fair market value. The law views each of these events like a "sale" of the property.

***GlobeSt.com: What can landlords do at the early stages of lease transactions to plan accordingly?***

***Glick:*** As already stated, landlords and tenants should always attempt to keep lease terms, including options, under 35 years. In addition, if a lease of 35 years or more has a contingency that needs to be satisfied before the rental commencement date occurs, it is imperative not to record a memorandum of lease or file a preliminary change of ownership form until the contingency is satisfied. If the contingency is not satisfied, and the lease is terminated, the property should not get reassessed if the steps referenced have been undertaken.

**Kelsi Maree Borland ›**

CONTACT KELSI MAREE BORLAND