



January 2021

Property Tax Alert Proposition 19 Immediate Attention Required

This alert is for clients who own California real property that has a current assessed value that is low compared with its current fair market value, and who have the intent to ultimately pass that property to their children (or grandchildren, in certain cases).

Proposition 19 (or Prop 19), a ballot measure that recently passed, makes significant changes to the property tax law relating to transfers of California real property between parents and children (and some grandparents and grandchildren). Prop 19 also changes the property tax rules for California residents age 55 or older who wish to transfer their existing property tax base from a current residence to a new home.

To understand the changes made by Prop 19, this alert will describe the current California property tax rules and then explain the effects of Prop 19.

I. Reassessment Exclusion for Transfers Between Parents and Children. Prop 19 for this rule is effective for transfers taking place **on or after February 16, 2021.**

1. Principal Residence.

(a) Current Law. Parents may transfer (by gift, sale or a lease of 35 years or more) their principal residence to their children (or vice versa) without a property tax reassessment. There is no limitation on the value (whether assessed or fair market) of the home and the recipient or recipients may use the property in any manner they wish (whether occupying the residence or using it for investment purposes).

(b) Prop 19. There is an occupancy condition added to the above rule and a value limitation. Prop 19 also adds certain farm property to this exclusion.

(i) Occupancy Condition. To qualify for the parent-child exclusion described above, the recipient must "continue to occupy the residence." It is

not clear what this term means. The law requires that within one year after the date of the transfer, the recipient must file a document declaring the home to be his or her principal residence (i.e., file for the homeowners' exemption). However, it is unclear for how long the recipient must maintain the property as his or her principal residence. It is also unclear as to what happens if there are multiple recipients of the residence and not all of them declare the home as their principal residence. These issues must be clarified through additional law or guidance.

(ii) Value Limitation. Unlike the current law where the difference between the fair market value of the principal residence and its assessed value is irrelevant, under Prop 19, there will be a partial reassessment of the home to the extent that the current fair market value exceeds (1) the assessed value, plus (2) \$1 million.

For Example, if the above occupancy condition is met and if the assessed value of the principal residence is \$500,000 and the current fair market value is \$1.5 million (or less), the home will not be reassessed. However, if the current fair market value is \$3 million, the new assessed value will be increased to \$2 million.

2. Other Real Properties. The following discussion does not include any properties held in entities (such as partnerships, LLCs and corporations), under which different property tax rules apply.

(a) Current Law. Parents may transfer any property that is not their principal residence to their children (or vice versa) without a property tax reassessment under certain valuation limits. Each parent is given a property tax exclusion of \$1 million of assessed value. If the assessed value exceeds that amount, there is a partial reassessment.

For example, if two parents transfer to their children a vacation or rental property that has an assessed value of \$2 million or less (even if the current fair market value exceeds \$2 million), then the transfer will not cause a property tax reassessment.

(b) Prop 19. Prop 19 **eliminates** the parent-child exclusion for transfers of other real property. Thus, transfers of other real property between parents and children **will be reassessed** to the current fair market value. There are **no** exceptions.

II. Reassessment Exclusion for Transfers Between Grandparents and Grandchildren.

1. Principal Residence. This rule survives Prop 19 in a similar manner as the parent child exclusion. However, to qualify for the grandparent-grandchild

exclusion, both of the parents of the grandchild must be deceased (or in cases where the surviving parent is the child-in-law of the grandparent transferor, the surviving parent must be remarried or divorced).

2. Other Real Properties. Similar to the parent-child exclusion, the grandparent-grandchild exclusion is eliminated for other real property under Prop 19.

III. Base Year Transfer for Persons Age 55 and Over. Prop 19 for this rule is effective for transfers taking place **on or after April 1, 2021.**

1. Current Law. Any California resident, who is age 55 or over and sells his or her principal residence and purchases a new one within two years (either before or after the purchase) and in which the new home is equal or less in value than the old home, may be able to transfer the lower property tax base to the new residence. There are other nuances to this rule related to disabled persons and slight inflationary adjustments. This rule is limited to certain California counties and could be utilized only once per person.

2. Prop 19. On the favorable side, Prop 19 expands the applicability of this rule. The condition that the new home be equal or less in value is eliminated. Thus, if the new residence is worth more than the old home, the new home will be reassessed by the difference. Further, the homeowner may utilize this rule up to three times and may purchase the new home in any California county.

For example, if the old home has an assessed value of \$500,000 and is sold for \$2 million and the new home is purchased for \$3 million, the assessed value of the new home will be \$1.5 million (\$500,000 plus the difference in value between the old and new home).

If you have any questions about the above changes or wish to find out their applicability to your situation, please contact us immediately.

For clients who have California real property held in Qualified Personal Residence Trusts (QPRTs), Bypass (Exemption) Trusts, or Marital Trusts, Prop 19 may adversely affect a later transfer of those properties to the ultimate recipients (i.e., remainder beneficiaries).

Please note that taking action now to avoid these future property tax issues might have a negative impact with regard to current and future gift, estate or capital gains taxes.