

Proposition 19

Current Legal Status & Base Year Transfer



By
David Ginsborg
Deputy Assessor



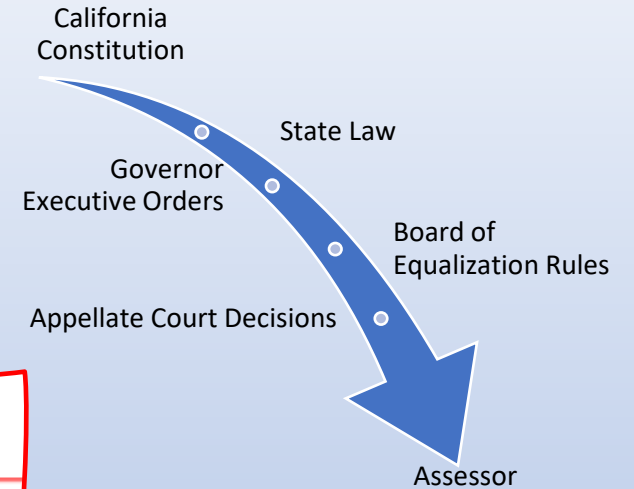
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Current Legal Status

- Proposition 19 ~ ambiguous, confusing and unclear

Please note that Proposition 19 is unclear whether one event (either the sale of the original residence or the purchase or new construction of the replacement residence) or both events must occur on or after April 1, 2021, in order to qualify for this base year value transfer.

Superseded – See Legal Memo dated 1/8/21, p. 4, Q1



- In the absence of implementing statutes, Board of Equalization rules or court decisions, each of the 58 Assessors on their own to interpret Proposition 19

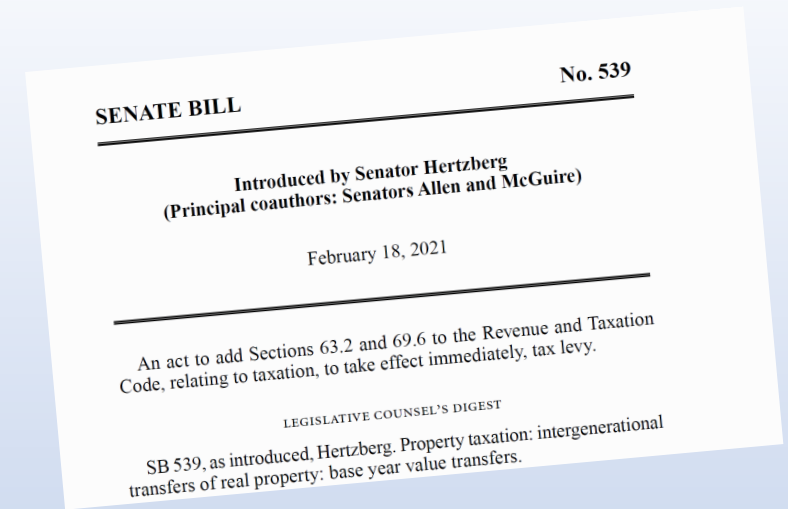


California Assessors' Association (CAA)

- All 58 Assessors are members
- Ad-Hoc Committee to identify the gaps between Proposition 19 intent and law
 - Los Angeles
 - Santa Clara (Nora Galvez/David Ginsborg)
 - San Luis Obispo
 - San Bernardino
 - Kings County
 - Amador
- Partnership with Board of Equalization
- Gap analysis (45 pages)
- Draft legislation (30+ pages)

Current Status of Legislation

- SB 668
- SB 539 (aka the "skinny" bill)



What's in SB 539: Inter-generational Transfer

Picks up definitions and processes used for the former parent-child and grandparent-grandparent exclusion implemented under RTC Section 63.1.

- Family Home – Principal Place of Residence
- Family Farm
- Principal Place of Residence Qualifications
- Grandparent-Grandchild Middle Generation Limitation
- Filing Requirements
- State Board of Equalization (BOE) Rule making authority

Prop 19: Inter-generational portion

Where do we go
from here?

BOE Regulations (Binding upon approval)

- Draft rule issued on inter-generational portion

BOE—Non-Binding Assistance

- Forms
- Guidelines
- Legal opinions

SB 539: Base Year Transfer

What's in SB 539

- Creates Rev and Tax Code 69.6. Designed to build upon Rev and Tax Code 69.5 which implements Proposition 60/90/110
- Date clarifications
- Age 55/Disabled. This bill provides that the claimant must be at least age 55 or severely and permanently disabled, as of the date that the original property is sold.
- Limitation on number of base year value transfers

Examples of what's not in SB 539

- No end date for Proposition 60/90
- Victims of wildfire or natural disaster - No new Code Section

Base Year Transfer of Prop 19:

Current Status

- Implementing like Prop 60/90/110
- New forms created
- BOE: Expect guidance and draft rules in the next 30 days
- Seeking comprehensive legislation

Base Year Transfer of Prop 19: Plans for Implementation

Essential Requirements:

- ✓ One transaction must occur on or after April 1
- ✓ Both homes must be the property owner's principal residence
- ✓ New home or newly constructed home is *NO LONGER* limited to being of equal or lesser value than old home.
- ✓ When the full cash value of the replacement home is greater than the full cash value of the original home, the difference in the full cash values will be added to the transferred factored base year value.
- ✓ At least one homeowner must be at least 55 years of age or severely disabled
- ✓ The homeowner must file an application with the local county assessor of the new home
- ✓ The sale and purchase transactions must occur within a two-year period
- ✓ Benefit available to either spouse (but not both)
- ✓ Can be used up to 3 times

Calculating Base Year Transfer

Original Home



Taxable Value: \$300,000
Sale Price: \$900,000

Replacement Home



Purchase Price: \$700,000
New Taxable Value: \$300,000

Example #1:

If the market value of the replacement residence is less than or equal to the market value of the original, then the taxable value will transfer to the replacement residence with no adjustment needed. Original Taxable Value = \$300,000 | Original Market Value = \$900,000 |

Replacement Market Value = \$700,000 Since the market value of the replacement is \$200,000 less than the original's market value, the taxable value transferred to the replacement will remain at \$300,000.

Example #2:

If the market value of the replacement residence is more than the market value of the original, then the excess will be added to the taxable value transferred at market value. Original Taxable Value = \$300,000 | Original Market Value = \$900,000

Replacement Market Value = \$1,400,000 Since the market value of the replacement is \$500,000 more than the original's market value, an adjustment to the transferred taxable value is made to add the difference in value. Therefore, the taxable value of the replacement will be \$800,000 (\$300,000 + \$500,000).

Original Home



Taxable Value: \$300,000
Sale Price: \$900,000

Replacement Home



Purchase Price: \$1,400,000
New Taxable Value: \$800,000

How does the Assessor determine market Value

- The term “market value” is extremely critical to a successful Prop 19 transaction.
- Assessors must assess property at the fair market value.
- Usually, the sales and purchase prices are accepted, but they must reflect the current fair market value.
- If for some reason the price does not reflect that, and the appraiser determines a different value for the fair market value, we use the fair market value that the appraiser determined.

New Proposition 19 Base Year Value Transfer for Victims of Wildfire or Natural Disaster

NEW!



Effective April 1, 2021

- Must be your principal residence
- Must purchase or newly construct a new residence within two years of sale of original home
- Anywhere in California
- Wildfire or natural disaster as declared by Governor
- Home must be substantially damaged (more than 50% of the improvement value of the residence)
- Any amount above the full cash value right before the wildfire or natural disaster will be added to the transferred value



Proposition 19: Base Year Transfer Questions and Answers

Q. There have been several questions about whether Assessors will consider delaying implementation of Prop. 19?

A. The voters approved the change to the State’s Constitution, which has explicit implementation dates and direction. The Assessor must administer the law and does not have discretion to set aside those portions for which they disagree.



Q. If I have already sold my original property and will purchase my replacement property after April 1, 2021, will I qualify under the new Proposition 19 Rules?

A. Yes, as long the purchase or completion of new construction of the replacement property occurs after April 1, 2021. Only one of the transactions must occur after April 1, 2021 to qualify under the new rules.

Q. If I have been denied a base year transfer because my purchase was greater than the sale price of my original property will I be able to qualify under the new Proposition 19 rules?

A. No, at least one of the transactions must be after the April 1, 2021 effective date.

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Q. I'm confused about the time limits. One place says there is a 2-year limit, and another place says 3 years. So, what is it?

A. These time limits are dealing with 2 different issues. The replacement residence must be purchased or newly constructed within 2 years (before or after) the sale of the original residence. The Proposition 19 application must be filed within 3 years of the date of the replacement residence is purchased or newly constructed in order to receive full benefits. If the application is filed after 3 years, only prospective relief will be granted.

Q. If I have sold my home and bought my new home in Santa Clara County in June 2021, and it takes 6-18 months to process, how much taxes do I pay in the interim?

A. The bill will be based on their purchase price until the application is approved. Once the application is approved, they will receive a credit/refund from the Tax Collector for any overpayments. Typical turnaround time is 3-4 months. The longest delay are transfers in the beginning of the year because of the close of the Assessment roll or waiting for assessed values from other counties. However, with the new rules, I would think the volume will increase, so turnaround time might be a little longer.

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Q. Is it OK to put another person on title (such as a son, daughter, brother) along with the person who is the claimant for Proposition 19?

A. Yes. The claimant needs to be on title in some percentage on both the original and replacement residences and can have others on title as well.

Q. If the qualifying homeowner has a minority interest in the property, can they transfer 100% of the benefit?

A. Yes, they will receive 100% of the benefit. It doesn't matter what percentage you own, You only have to be on title of the property that is sold and the property that is purchased.

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Q. I never applied for a Homeowner's Exemption, but I had lived in my house for many years before I sold it. Can I still qualify?

A. As long as the homeowner can prove that the sold property was owned and occupied as the principal place of residence, he or she can meet the residency requirement. Proof of residency may include vehicle registration, bank accounts, or income tax records. Utility bills do not qualify because they might be sent to a renter.

Q. How long do I have to live in a house before it is considered a principal residence?

A. There is no time requirement. However, the claimant must be eligible for the homeowner exemption and have lived there long enough to be able to provide the documentation as mentioned above. A principal residence is a person's true, fixed, and permanent home and principal establishment to which the owner, whenever absent, intends to return.

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Q. I am purchasing a new residence and plan to rent it out for a year (or remodel it) before I move into it when I sell my original house. Will I still qualify for Proposition 19?

A. Yes, if the replacement property is the primary residence at time you apply for Proposition 19.

Q. What if I rent out my original house for a year, sell it, and then buy a replacement residence?

A. Yes, if the original property is sold within 2 years of purchasing your replacement property and the original property was eligible for the homeowner exemption, either at the time of sale or within two years of the purchase or new construction of replacement dwelling.

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Q. I think that my realtor or title company already took care of filling out the application. Isn't it an automatic grant?

A. Sometimes a realtor might assist you, but it is not an automatic grant. You must fill out an application and file it with the Assessor's office where the replacement property is purchased. A copy of a driver's license or birth certificate should be attached to the application. If you are not sure if you have filed an application, call the Assessor's office to check.

Q. I previously transferred my home under Prop 60. Can I transfer again under Proposition 19 and if so, how many times?

A. Yes, up to three additional times. Under Proposition 19, all Prop 60/90 base year transfer are not taken into account.

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Q. I sold my house a year ago, moved out of state, and now I want to move back. Can I still qualify for Proposition 19?

A. Yes, assuming all the other qualifications are met and the two transactions of selling the original residence and buying the new residence are within 2 years of each other.

Q. I inherit a residence from my mother this year and I file for and receive the parent-child exclusion. Can I, when I turn age 55, sell this property and transfer my mother's base year value to another property that I purchase?

A. Yes, as long as you have moved into the inherited residence and live in it as your primary place of residence. If you are over age 55, you may sell your primary residence, buy another residence, and transfer the base year value, if all the other requirements (timing, value, residency, timely filed claim) are met. It does not matter how you acquired your original property.

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Q. I purchased a replacement dwelling in March 2020. My original property later sold in November 2021 and I filed a claim to transfer the base year value. Is the date of transfer, the date I purchased the replacement dwelling?

A. Assuming you meet all the qualifications for a Proposition 19 base year value transfer, the base year value is transferred as of the latest qualifying date:

- ✓ The date the original property sold, or
- ✓ The date the replacement property is purchased, or
- ✓ The date the new construction of the replacement property is completed.

In your case, the base year value would be transferred as of November 2021 because that is the latest qualifying date. You are responsible for the increased taxes from the time the replacement property was purchased until the original property was sold.

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Q. I bought a vacant lot 10 years ago. I want to sell my present home and build a new one on the vacant lot that I already own. Would I qualify for Proposition 19?

A. Yes, if the date of the completion of the new construction is within 2 years of the sale of the original house. The Assessor's office will do a market appraisal as of the date of completion on the new construction including the land of what the new house would sell for. The market value of both the land and improvements is what the appraiser uses to compare with the sale of the original house.

Q. What does severely disable mean?

A. Like the existing disability requirements, the applicant's physician must complete a Certificate Disability indicating that their severe disability requires them to move to a new residence that meets the needs of their disability. The Assessor's office will provide you with the certificate, along with the application for the Proposition 19 or Proposition 110 transfer. The most common request for a transfer for a disability is moving from a two-story home to a single-story home.

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Q. Can I transfer my tax base value to a manufactured home?

A. Yes. Generally, (with a few exceptions) the total of your base year value is transferred to the manufactured home. Sometimes, it is not advantageous because of the lower cost of the manufactured home.

Q. How long does it take to process the application?

A. As in past years, transactions that occur after January 1, will not begin to be processed until after July 1. As we are setting up new processes and procedures, we have no way to know for sure how long it will take to process.

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Q. Would I still qualify for Proposition 19 benefits if I was a few months shy of 55 when my property sold, but over 55 when I purchased my replacement property?

A. No, you must be at least 55 when your original property sells. While you may be 54 when you purchase your replacement property, you must be at least 55 when you sell your original property.

Q. What form do I complete when I sell my original home? Is there another form when I sell my replacement home?

You do not need to fill out any forms or notify the Assessor's office of your sale or purchase until you close escrow on both properties. Once both properties have closed escrow you can download an application (BOE-19-B) from the Assessor's office website in which your replacement property is purchased. Please mail the original application with a copy of your driver's and any applicable fee's to your local Assessor's Office. You do not need to include copies of escrow documents or deeds, we verify everything in house

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Q. My spouse and I just got a divorce. We are going to sell the house that we bought together, and I plan to buy a new house. Can I transfer the tax base, or am I only able to transfer half of it?

A. The tax base is not split, and only one of you can transfer the entire tax base. If you qualify to transfer the tax base at this time, your former spouse can apply for the benefit in the future using other properties.

Q. Do we anticipate charging a fee to process base year transfers like Prop 90?

A. Yes, we anticipate charging the same filing fee of \$110.

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