



Understanding Prop. 19 and Its Implementation

Santa Clara County

MARCH 16, 2021

NORA GALVEZ, DIVISION CHIEF OF STANDARDS, SERVICE
AND EXEMPTIONS

Proposition 19

- Approved by California voters on 11/03/20
- Adds Sections 2.1, 2.2, and 2.3 to Article XIII A of the California Constitution
- Changes provisions on the parent-child and grandparent-grandchild exclusions effective **2/16/21**
- Adds new provisions for base year transfers effective **4/1/21**

Proposition 19

- Limits exclusion to family farm or family home only
- Family Home: Principal residence of both transferor and transferee
- Adds value test for family homes: Factor Based Year Value (FBYV) + \$1 million

Proposition 19

- It repealed the former parent-child and grandparent-grandchild exclusions by making inoperative provisions to the Constitution that were added by Proposition 58 and 193 in 1986 and 1996, respectively, as implemented by Revenue and Taxation Code section 63.1

Parent and child exclusion - Proposition 58

- Effective date November 6, 1986
- Revenue and Taxation Code Section 63.1
- Transfer principal residence between parents and children without reassessment, regardless of value
- No restrictions on use of the property after transfer
- Transfer up to \$1,000,000 in assess value of properties, other than principal residence, (rental properties) without reassessment

Grandparent to grandchild exclusion - Proposition 193

- Effective date March 27, 1996
- Revenue and Taxation Code Section 63.1
- Transfer principal residence between grandparent to grandchild only without reassessment regardless of value
- No restrictions on use of the property after transfer
- All the parents of the grandchild must be deceased as of the date of transfer

Proposition 58/193 vs. Proposition 19 provisions

- Prop 58/193 -Transfer principal residence between parents and children without reassessment regardless of value.
 - Prop 19: Value limit of current taxable value plus \$1,000,000.
- Prop 58/193 -No restrictions on use of property after transfer.
 - Prop 19: Transferee must use property as principal residence after transfer.
- Prop 58/193 - Transfer up to \$1,000,000 in assessed value of properties other than principal residence (rental properties) without reassessment.
 - Prop 19: Only principal residence is eligible. Eliminates exclusion for other real property.

Filing Requirements

- Transferee must claim the homeowner's or disabled veteran's exemption at the time of the purchased or transfer of the family home.
- If not filed at the time of purchased or transfer, the transferee has one year from the date of purchase or transfer to file the claim for the homeowner's or disabled veteran's exemption.
- A claim form must be file in order to receive exclusion.

Proposition 19 Value Test

1. Calculate the sum of FBYV + \$1,000,000.
2. Determine whether the assessed value exceeds the sum of the FBYV + \$1,000,000.
3. Calculate the difference.
4. Add difference to FBYV.

Prop. 19 Value Test - Example

A single-family residence has a factored base year value of \$200,000. Parent dies on March 1, 2021, and property is inherited by parent's only child. The property was the principal residence of both parents and child. On parent's date of death, property has a fair market value of \$1,800,000.

1-Calculate the sum of factored based year value plus \$1,000,000

$$\text{\$200,000} + \text{\$1,000,000} = \text{\$1,200,000}$$

2-Determine whether the assessed value exceeds the sum of the factored base year value plus \$1,000,000

$$\text{\$1,800,000 is greater than } \text{\$1,200,000}$$

3-Calculate the difference

$$\text{\$1,800,000} - \text{\$1,200,000} = \text{\$600,000}$$

4-Add difference to factored base year value

$$\text{\$200,000} + \text{\$600,000} = \text{\$800,000 (New combined base year value)}$$

Question 1:

Is Proposition 19 retroactive and would it cause property transfer that have already received the benefit of Proposition 58 (parent-child exclusion) to be reassessed?

Answer: No, Proposition 19 is clear that Proposition 58 applies to transfers that occur on or before February 15, 2021, and that Proposition 19 applies to transfers that occur on or after February 16, 2021.

Question 2:

- If a parent died prior to the February 16, 2021 operative date and the Assessor does not become aware of the death until a year later and reassesses the property as of the date of death, are the parent-child exclusion provisions applied under Proposition 58 or Proposition 19?
- **Answer:** The date of death is the date of change in ownership. The law in effect as of the date of death will apply. Proposition 19 is clear that [Proposition 58](#) applies to transfers that occur on or before February 15, 2021, and Proposition 19 applies to transfers that occur on or after February 16, 2021.

Question 3:

I have my deed signed and notarized and have submitted it for recording at my local County Recorder's office prior to the February 15, 2021 deadline. What if my deed does not record by the February 15, 2021 deadline? Must my deed be recorded prior to that date in order to still be under the [Proposition 58/193](#) provisions?

Question 3:

- **Answer:** No. As long as the date of *transfer* is on or before February 15, 2021, the transfer will qualify for the [Proposition 58/193](#) exclusion. [Property Tax Rule 462.260](#) makes clear that the recordation date of a deed is *rebuttably presumed* to be the transfer date. This means that if evidence is shown that the transfer occurred prior to the recordation date, the assessor should accept that earlier date. Such evidence could be, for example, the date of a notarized document of transfer, such as a deed.

Question 4:

- Are transfers of family homes through the medium of a trust eligible for the Prop 19 exclusion?
- **Answer:** Yes. For property tax purposes, we look through the trust to determine who has present beneficial ownership. Therefore, if all requirements are otherwise satisfied, transfers to and from a trust are eligible for the exclusion.

Question 5:

- Does Prop 19 make any changes to the ability of trustees to equalize distributions of estate property in a trust that provides that the children are to receive the trust assets on a share and share alike basis?
- **Answer:** Proposition 19 does not change the property tax rules surrounding the operation of trust, including trusts with share and share alike provisions. However, after February 15, 2021, only the family home and family farm may be excluded from change in ownership.

Question 6:

- I am planning to transfer my family home to my two children. Must the property become the family home of both children in order to receive the exclusion?
- **Answer:** No. As long as the property becomes the family home of one of the two children within one year of the transfer, the property can qualify for the exclusion.

Additional Resources

- State Board of Equalization Letter to Assessor No.2020/061
- State Board of Equalization Letter to Assessor No. 2021/008
- Board of Equalization's Property Tax Department, County-Assessed Properties Division at 916-274-3350
- Visit Santa Clara County website:
<https://www.sccassessor.org>