



The following Questions and Advisory responses only apply to Santa Clara County Assessor's Office's current understanding of Proposition 19 and is subject to change.

The Responses were prepared for a February 4, 2021 Webinar. We received a large volume of questions. We are hopeful, by the end of the webinar, many will have been answered. For those questions unanswered, you should contact your local Assessor or the Board of Equalization.



Q. Most questions are about the Parent-Child portion of Prop. 19, but one major question is about the changes for the over 55 base year transfer. Basically, can a eligible property owner qualify for the base year value transfer if they purchase their replacement home now and sell original the home on or after April 1, 2021?

A. Prop. 19 requires the transfer of the base year value to occur on or after April 1, 2021. It does not require that both the primary residence be sold, and the replacement's primary residence be purchased on or after April 1, 2021. Therefore, in most cases, as long as either the primary residence is sold, or the replacement primary residence is purchased, on or after April 1, 2021, the base year value of the primary residence can be transferred to the replacement primary residence under Prop. 19. However, as with all the questions and responses, future legislation may impact the operation of Prop. 19 and any updates will be posted on the Assessor and or the Board's website.



Q. Lots of questions about what elements in a trust trigger reassessment, tenants in common, joint tenancy, etc.

A. In short, the rules governing what constitutes a change in ownership are unchanged by Prop. 19 and will not be addressed today. The Assessor's Office does not provide legal advice. As noted by the BOE, the administration of a trust is governed by the trust instrument itself. For properties held in trusts, Revenue and Taxation Code Section 61(h) provides that a change in ownership occurs when any interests in real property vest in persons other than the trustor or the trustor's spouse or registered domestic partner when a revocable trust becomes irrevocable (also see Property Tax Rule 462.260).



Q. Do we need to submit our application for the parent/child exclusion prior to the February 16, 2021 operative date to qualify for the exclusion under Proposition 58/193?

A. No. As long as the date of transfer or change in ownership of real property between parent to child and grandparent to grandchild occurs on or before February 15, 2021, the transfer will qualify for the exclusion under Proposition 58/193. The Santa Clara County Assessor's Office, in accordance with Property Tax Rule 462.200 and 462.260 will allow a different transfer date other than the recording date as long the presumption is rebutted, for example a notarized document. This is our current practice on leases, contract of sales, LEOPs (Legal Entity Transfers) and other old grant deeds. Information on overcoming the deed presumption is contained in these two property tax rules. Additionally, we will accept a claim filed with the Assessor's Office within three years of the date of transfer or before a transfer to a third party or within six months of the date of notice of supplemental or escape assessment as stated on Section 63.1 of the Revenue and Taxation Code. When the Assessor's Office is notified of a death, we typically send out a request for more information. Please note the Recorders Office is closed for holidays on February 15 and March 31.



Q. If a family home is gifted to two children, do both children have to reside in the family home as their primary residence to receive the parent-child exclusion?

A. No. As noted on the BOE website, the exclusion is permitted if the parent's family home becomes the family home of at least one of the children.

Q. Under Prop. 19, if I inherit my parent's family home and move into it and establish it as my principal residence, must I live continually in the home to receive the parent-child exclusion? What happens if I move somewhere else?

A. Yes, one eligible transferee must continually live in the property as his or her family home for the property to maintain the exclusion. The home must become the principal residence of an eligible transferee or transferor within one year of the effective date of the transfer; and must file for a homeowners' exemption or disabled veterans' exemption within one year of the effective date of transfer. The same one-year filing period applies to subsequent transfers to other siblings. If the property is no longer your family home, it will receive a new taxable value. The new taxable value will be the fair market value of the home on the date you inherited it, adjusted each year for the inflation factor, which is published by the BOE annually.

Disclaimer: This information is intended to provide a general summary of Proposition 19. It is not intended to be a legal interpretation or official guidance, or relied upon for any purpose, but is instead a presentation of summary information. Proposition 19 is a constitutional amendment, so additional legislation, regulations, and statewide guidance are expected to clarify its implementation. If there is a conflict between the information provided here and the proposition or any legal authorities implementing or interpreting the proposition, the text of the proposition and the other implementing or interpretive authorities will prevail. Please continue to visit our website or the website of the State Board of Equalization for more information. We encourage you to consult an attorney for advice on your specific situation. The advice below is subject to change. Information as of February 4, 2021



Q. Does Prop. 19 apply to a transfer of a rental home?

A. No, Prop. 19 limits the parent-child exclusion to a transfer of a family home that is the principal residence of the transferor and becomes the principal residence of the transferee. A parent that has not met the residency qualifications in the year preceding the transfer is ineligible for Prop. 19.

Q. My client and her mother live in the same home and each own the home 50/50. They both qualify for the homeownership exclusion. If the home is appraised for \$2.0 million at the time of mom's death, can my client use the \$1.0 million limited exemption on her mom's 1/2 of the home so that it is not reassessed?

A. Yes, it allows qualifying partial interest, Prop. 19 exclusions will be granted.



Q. There have been a lot of questions about Farms, in general here is our current understanding.

A. Prop. 19 applies to the family home and the family farm. The definition for family farm is broad and described in the initiative. Portions of the farm not continuously used as a family farm are not eligible. A family farm does not need to be principal residence of either the transferor or the transferee and thus both the family farm and the home are separately eligible for the exclusion. The family farm is determined by appraisal unit, not by parcel. If there are multiple eligible transferees, only one must continue to farm to qualify the property for exclusion.

Q. If a parent has already passed a primary residence on to a child under Prop. 58 can they then pass their new primary residence on to a second child upon their passing under Prop. 19?

A. Yes, Prop. 19 is entirely separate from Prop. 58. Properties transferred on or after February 16 can be eligible under Prop. 19.



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.