

PROPOSITION 19: There's a Narrow Window to Beat The Increased Property Tax

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The Pros & Cons

This November, California voters approved Proposition 19, which expanded some property tax exemptions for people 55 and over, but also increased property taxes in many future property transfer situations when there is a death in the family.

The quick recap is there are some property tax PROS for eligible homeowners to avoid costly property tax increases, and some property tax CONS for parent to child transfer of property within your estate plan.

In addition, there are some key milestone dates to be aware of that take effect early next year so read ahead to see if you and your family may be affected and know that we are here to answer your tax planning questions and help you create a strategic and cost-effective estate plan.



PROS: Transfer of Property Tax Basis for Eligible Homeowners

Current California law allows homeowners over the age of 55 years old and those severely disabled to sell their personal residence and carry over its property tax value one time only to another residence of equal or lesser market value. This special one-time use tax rule was limited to moves made within the same county (or to one of 10 eligible counties).

The good news is that Proposition 19 expanded this special rule so that homeowners over 55 years old, disabled persons, and victims of natural disasters can transfer their existing home's value to a replacement home up to three times anywhere within the state (i.e., no longer limited to 10 counties), so long as each transfer is done within two years of the sale of the original primary residence. Also, Proposition 19 allows these persons to transfer their home's value to be to a more expensive home (no longer limited to a replacement home of equal or lesser value, albeit with some limits).

In other good news, Proposition 19 will allow those homeowners over 55 years old or those with severe disabilities, to transfer their tax assessment up to three times (as opposed to just one time). These changes are expected to allow these eligible homeowners to avoid a costly property tax increase when deciding to upgrade, downsize or otherwise relocate to a new residence.



CONS: Parent to Child Transfer of Property

Perhaps most alarming is the effect Proposition 19 will have on the parent to child exclusion when transferring property left in an estate plan's will or trust.

Current California law generally allows for two valuable exemptions from reassessment when parents transfer real property to their children (or when grandparents transfer property to grandchildren whose parents are deceased). Under the first exemption, when a parent transfers their primary residence to their child, it is completely exempt from reassessment. Additionally, under the second exemption, when a parent transfers real property that is not the primary residence (i.e., vacation, rental, commercial property) to the child, up to \$1 million of the assessed value on those non-residential properties is exempted from reassessment. These **current** exemptions will be available through February 15, 2020.

The bad news is that the newly passed law in Proposition 19 will increase property taxes for many more families— especially at death. Beginning February 16, 2021, the parent to child exclusion that currently prevents a family residence from being reassessed to children will be severely limited. It will only apply if the family house hasn't appreciated more than \$1 million (over the assessed value).

But wait, there's more (sorry). There is a little-known exclusion that keeps second houses and commercial properties from being reassessed, if their assessed value is under \$1 million. For any family who bought a beach house or commercial property in the 1960s or 1970s, the exemption was an extremely important tool to keep that property from being reassessed at death. This special exclusion was repealed by Proposition 19.

FOR EXAMPLE...

...let's assume a family has owned a commercial property since the early 1970s with a property tax base of \$800,000, and an annual property tax of \$9,600. Let's also assume that the property today is now worth \$6 million. Before Prop. 19, that property would pass down to the children with no change to its property tax. Once Prop. 19 goes into effect on February 16, 2020, the property will be reassessed at the parents' death, which means the property tax will increase to around \$72,000/year.

Not quite the family inheritance and tax planning strategies you originally planned for when you bought the property fifty or sixty years ago, right?



Planning Your Solutions & Considerations Before February 16, 2021

If you own a property that has a high fair market value and currently low tax assessed value, you will really want to consider planning for that property before February 16, 2021. By doing your tax planning before then, you might be able to save your children substantial property tax increases in the future. If you wait until after that, it will be too late.

Of course, one must always consider the other consequences of planning for real property transfers. For example, there are significant gift tax, estate tax, and capital gains tax considerations. Here at Law & Stein, our firm has developed a special trust which is designed to maximize property tax and capital gains tax savings.

We realize these changes to the law and their potential consequences are complex and may be difficult to understand. It is important that you consult with an attorney regarding how Proposition 19 affects your specific estate planning situation. If you feel as though any of these changes discussed above may impact your future inheritance planning, please feel free to reach out to us as soon as possible so we can discuss potential estate planning solutions with you to better understand how Prop. 19's "low key" tax increase might impact your family.



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