

**Prop 19 Is In Effect.
Is There Still Time To Avoid
Reassessment?
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The good news? There still may be hope for those who missed the boat on planning before Prop 19 became effective!

Prior to February 16, 2021, real property was reassessed at market value if it was sold or transferred, and often times property taxes increased dramatically as a result. After February 16th, passing real property to your children has, for the most part, become much more costly. But there may still be a way to avoid or eliminate costly property reassessments!



**Quick Background on Property
Transfer Laws (Props 13, 58, &
193)**

Under California Proposition 13 (1978), the value of a property was limited to the purchase price of the property plus a maximum of a 2% increase per year in value.

Under California Proposition 58 (1986), a constitutional amendment excluded from reassessment transfers of real property between parents and children.

Under California Proposition 193 (1996), reassessment of real estate was excluded from real property transfers from grandparents to grandchildren. Some caveats applied but if all requirements were met, the real property would transfer to grandchildren at the same property tax assessment the grandparents had at the time of transfer.

Under both Propositions 58 and 193, transfers of a primary residence were not limited in value. In other words, if the assessed value of a property was \$1,500,000, but the property was worth \$5,000,000, there was no reassessment of the real property at the time of the transfer. Transfers of the first \$1,000,000 of property other than a primary residence were also excluded from reassessment. The \$1,000,000 exclusion applied to both transferors of jointly owned real property (i.e., a combined \$2,000,000).



Quick Highlights of California Prop 19 (2021)

Prop 19 does three main things:

1. It increases the use of the “55 and over” rollover of a property tax base value. (The old rule stated you could only do this once, and the new house had to be in 1 of 10 participating counties and of equal or lower value.) Prop 19 states 55 and over can do the base year rollover up to three times. The new house can be anywhere in CA. The new house may be of higher value, but the rollover loses some effect if the house is higher in value.
2. Prop 19 limits the “primary residence” rollover of base year value. (The old rule stated the residence could be worth any dollar amount, and kids could use it for any purpose; in other words, kids got to keep the old house at assessed value.) Prop 19 states that at death, the “old” assessed value is added to \$1 million, and if the fair market value at death is less than that, you get to keep the old, assessed value. If the total is higher, then you have to add the surplus to the assessed value. Basically, the rollover of base year assessed value on a residence is generally limited in cases where the house has appreciated more than \$1 million.
3. Prop 19 completely eliminates any rollover of base year value on any property other than personal residence. (The old rule stated you could rollover up to \$1 million of assessed value.)

In summary, Prop 19 eliminated Prop 58 and Prop 193, except to a primary residence. It also limited the ability to transfer a primary residence without at least a partial reassessment. As for primary residences, the exclusion will be eliminated for any value exceeding the property’s current tax assessed value plus \$1 million dollars.

When property owners pass away, those properties will be reassessed to fair market value creating an enormous property tax liability for the beneficiaries of the real property.



What Can Be Done Now?

If you think you missed the boat and you would still like to avoid or eliminate reassessment to the fullest extent possible, there may still be at least one viable option, which is to create an LLC to own the real property.

While you are living, you can create an LLC, transfer your property to the LLC, and then sell or gift LLC interests to your children (or other beneficiaries). As long as you do not transfer more than 50% of the LLC interests, no reassessment is triggered. Once you reach the 50% threshold, you can then distribute the property to the LLC members proportionately (as long as it is done proportionately per the membership interests, there is no reassessment).

After some time, you can then contribute the property to a new LLC and the contributing parties would be deemed “original co-owners” and the ability to transfer up to 50% of the LLC rule applies again.

However, it is important to note that further planning around property tax reassessment only makes sense if the family is going to keep the property(ies) for an extended period of time. If the children/beneficiaries are just going to sell the property(ies) shortly after the death of the real property owner(s), then there is no reason to plan around property tax reassessment. Once sold, the property will be reassessed and handed over to the new owner, leaving it out of your hands.

We Can Help Make It Happen

With Prop 19 in place, you are not totally sunk when it comes to property tax planning. As a result of Prop 19, it is recommended that you create an LLC to purchase and own real property in California.

Our office is well versed in both property tax reassessment issues and the benefits of using LLCs to own real estate (even beyond property tax planning). We would love to help you maximize the amount of your estate being passed along to your children, grandchildren, and other beneficiaries.

We look forward to serving you & wish you the best

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