



## What's Up With SCA-3

As of now, transfers of the family home to the kids Will Not Be Subject to Reassessment

### Existing Law

In California, Proposition 58 allows parents to transfer their primary residence and other real estate with an **assessed value** of up to \$1 million to their children without reassessment. Before the passage of Proposition 58 by the California electorate, children were often forced to sell the childhood home after the death of a parent because the child could not afford the new increased property tax. Proposition 193 is the corollary to Proposition 58, and allows for grandparents to transfer property to grandchildren without reassessment under very limited circumstances.

### Proposed Changes to Existing Law

Senator Jerry Hill, D- San Mateo, has introduced Senate Constitutional Amendment 3 (SCA-3) into the State Senate. This bill provides not only that the home has to be the parent's primary residence, it must also be the child's primary residence within 12 months of transfer. If at any point, the property is no longer the primary residence of the child, the property tax is reassessed to 1% of its fair market value *as of the date of transfer*.

The stated objective of the bill is to "close the legal loophole that has allowed some individuals to dodge thousands of dollars in property taxes while reaping rental income from homes they have inherited and do not use as their primary residence". Although the original intent of Proposition 58 did not set any requirements that the inherited property also needed to

be the children's primary residence, this supplementary condition requires the property to be the primary residence, meaning the child must spend a majority of the year living at the residence, there must be continuous access to the house, and a variety of other factors. SCA-3 also sets new restrictions to the \$1 million property tax exemption for real property other than the family home.

SCA-3 recently passed the Senate Appropriations Committee and second reading, but was voluntarily retracted by Senator Hill and made inactive when it reached the State Assembly. As of this date, SCA-3 is inactive. The bill may be reactivated in next year. We will continue to monitor developments and will keep our community up to date if the bill is brought back to life with an effort to place it on the 2020 ballot as an initiative.

At McDowall Cotter, APC, our estate planning process includes planning for incapacity without probate, and consultations for making well-reasoned decisions whether you are married, have children, are single, or are part of a blended family. Our goal is to provide you with an estate plan that provides for dignity and privacy in the event of incapacity and provides for the efficient and cost effective transfer of estate assets in the event of death.

If you are located in the Bay Area and have questions about how to prepare for you or a loved one, please feel free to give our office a call at (650)572-7933 to schedule a phone consultation with one of our attorneys. Here at McDowall Cotter, we have experience working with various companies in the San Francisco Peninsula, South Bay, Alameda County, and San Francisco.

Jonathan Liu