

PROPOSED PULL-BACK FROM PROPOSITION 13

Proposition 15- The Split Roll Initiative

In addition to Proposition 19, which seeks to place significant limitation on the Parent-to-Child reassessment exclusion for property taxes in California, owners and renters of commercial or industrial property in San Mateo County and throughout California will want to study Proposition 15 on this year's November Ballot. This 'Split Roll' Initiative removes properties zoned commercial or industrial from the protections of Proposition 13. Here is a look at the initiative.

- Proposition 15 seeks to amend Article 13 of California's Constitution. Article 13 was added to the State's constitution by California voters through the passage of Proposition 13. If passed, Proposition 15 would require commercial and industrial properties, except those zoned as commercial agriculture, to be taxed based on their current market value rather than their purchase price.
- Proposition 15 calls for the assessment of taxes on commercial and industrial properties at market value, while continuing to assess taxes on residential properties based on the purchase price. This is referred to as a "*split roll*."
- The reassessment of commercial and industrial properties in California would be phased in over time, beginning in fiscal year 2022-2023. Properties, including retail centers where occupants are 50 percent or more *small businesses*, would be subject to the upward reassessments beginning in fiscal year 2025-2026 or a later date determined by the legislature.
- Property owners holding \$3 million or less in *total* commercial and industrial property holdings in California (in the aggregate statewide) would continue to have their properties taxed based on their purchase price. The property owner will need to prove to the County Assessor every year the property is exempt from reassessment.
- Pursuant to the initiative, commercial and industrial properties not otherwise exempt from reassessment are to be reassessed at least every three (3) years, with inflation adjustment increases every two (2) years.
- The initiative offers an apparent amelioration by exempting a small *business's tangible personal property* from taxes and \$500,000 in value for a non-small business's tangible personal property.
- The state fiscal analyst estimates Proposition 15, if passed, will generate between **\$8 billion and \$12.5 billion** in revenue per year.

- Proposition 15 provides that the Legislature will be responsible for passing laws for a phase-in of the market value-based tax on commercial and industrial properties and how often reassessments would occur. The initiative requires reassessment at least every three (3) years.
- Proposition 15 calls for the distribution of new revenue to specific areas. Tax revenue would be distributed to the State to supplement decreases in revenue from the State's personal income tax and corporation tax due to increased tax deductions, and to Counties to cover the costs of implementing the measure. 60% of the remaining funds would be distributed to local governments and special districts, and 40% would be distributed to school districts and community colleges through a new Local School and Community College Property Tax Fund. Revenue appropriated for education would be divided between community colleges, public schools, charter schools, and county education offices.
- There is devil in the details. Proposition 15 offers numerous requirements some of which include:
 - o Determinations of fair market value by the county assessor are to be deemed 'conclusive' and subject only to judicial review for abuse of discretion;
 - o Commercial and industrial property reassessed will be subject to adjustment for inflation- not the 1% currently provided under Proposition 13;
 - o It will be the responsibility of commercial and industrial property owners to claim and certify annually that their aggregate, state-wide commercial property has a value of less than \$3 million.

Here are some examples of how Proposition 15 would work:

In 1980, John and Lin purchased a \$500,000 building and opened a hardware store in the building. The original property tax on the assessed ad valorem value of the property was 1% under Proposition 13, or \$5,000. The assessed value increased up to 2% per year under Proposition 13. Let's assume the ad valorem value of the property and improvements in 2020 is \$550,000, so the ad valorem property tax bill, before add-ons, is \$5,500. The market value of the property has increased from \$500,000 in 1980 to \$3.2 million in 2020. Pursuant to Proposition 15, the new ad valorem tax would increase from \$5,500 to 1% of the fair market value (\$3.2 million), or \$32,000 in ad valorem property taxes each year, an increase in ad valorem property taxes of some \$26,500 per year.

Eduardo and Cecilia lease a space at a shopping center where they run a small, family run bakery. They have a typical triple net lease with the owner of the shopping center that requires them to pay a pro rata share of increases in property taxes during the lease term. The market value of the shopping center is less than \$3 million dollars, however, the owner of the center owns other California commercial property, so its combined ownership of California real estate exceeds \$3 million. Pursuant to Proposition 15, the center's owner will realize an increase in property taxes with the properties reassessed to the current market value of the property. Pursuant to a typical

triple net lease, Eduardo and Cecilia will be responsible for a pro-rata increase in the owner's property taxes. Eduardo and Cecilia will most likely benefit from a decrease in the payment of annual personal property taxes associated with their business.

Should you have any questions or would like to learn more, please feel free to consult with one of our attorneys at McDowall Cotter APC by giving us a call at 650-572-7933. The accomplished attorneys of McDowall Cotter APC work in civil litigation, business services, and estate planning and are located in San Mateo, California. Our experienced and knowledgeable staff will be able to help you with any of your needs or concerns. Additionally, you can find McDowall Cotter APC on Facebook, Instagram, Twitter and LinkedIn @McDowallCotter.