

**THE END OF THE PARENT-TO-CHILD PROPERTY TAX EXCLUSION IN CALIFORNIA?**

**A DEEP DIVE INTO PROPOSITION 19**

August 16, 2020

San Mateo County residents, and all current and future California property owners, need to understand the implications of Proposition 19 on this November's ballot. If passed, the Proposition will have a major impact on the current rules for California property taxes that have been in place since the passage of the landmark property tax initiative, Proposition 13.

Proposition 19 on one hand seeks to resurrect a failed attempt to expand property tax benefits for California seniors and, on the other hand, seeks to drastically limit the ability of a parent or grandparent to transfer California property to children or grandchildren without reassessment of property taxes to fair market value.

This proposition is the result of the California Legislature passing a bill in July of this year, placing the proposition on the ballot. The late-passed bill is supported by the California Association of Realtors PAC and the US National Real Estate Association. According to sources, these two groups have spent a combined total of about \$19 millions in support of Proposition 19.

**A. Background**

In 1978, California voters passed Proposition 13. The proposition capped ad valorem property taxes at 1% of the 1976 fair market value of California properties and provided for a maximum increase in the assessed value of the property at 2% per year thereafter, unless there was a change in ownership for which an exemption from reassessment did not apply. California voters overwhelmingly passed Proposition 13 in large part because California seniors were being priced out of their homes as their property tax bills were sharply increasing under the property tax system then in place.

As of 1978, California property owners had their property tax assessments adjusted with assessed values subject to a maximum 2% increase each year so long as there was no change in ownership for which an exemption from reassessment did not apply.

In 1986, one of the exemptions from reassessment, the parent-to-child transfer exclusion, was overwhelmingly approved by California voters. Pursuant to Proposition 58, a parent may transfer to their children the family home without reassessment. Under certain circumstances a grandparent may also transfer the family home to a grandchild without reassessment. Additionally,

other property, including a vacation home, a second home and/or other income property, may also be transferred to children without reassessment so long as the assessed value of the other property is less than \$1 million dollars. One laudable outcome of this constitutional amendment was to allow children to continue holding the family home and other property where otherwise the reassessment of those properties would make it practically impossible for the children to retain these family assets.

### **B. The Impact of Proposition 19**

Proposition 19 seeks to dismantle major portions of Proposition 58 by forcing at least partial reassessment of inherited or transferred property within families. The only exception would be if the family home timely qualifies as the principal residence of the child to whom it is transferred. This means the family home transferred must be formally claimed by the child (or qualified grandchild) as the child's primary residence within a year of the transfer to qualify for the partial reassessment exclusion. However, the home will most likely be subject to partial reassessment depending on its value, and the portion reassessed will be subject to further increases not limited by Proposition 13's cap of 2%.

No property other than the primary residence (or family farm) will be able to qualify for even a partial reassessment exclusion. All properties other than the family home (or family farm) will be reassessed to their current fair market value on the date of transfer, whether the transfer is by inheritance, sale, gift or otherwise.

### **C. Proposition 19 and the Senior Benefit**

The first part of Proposition 19 is essentially a replay of 2018's Proposition 5, which was soundly defeated by California voters in the last election cycle.

If passed, this part of Proposition 19 would permit homeowners who are 55, severely disabled, or whose homes were destroyed by wildfire or disaster, to transfer their primary residence's property tax base value to a replacement residence of any value, anywhere in the state. Up to three transfers would qualify for the exclusion.

Under current law, California seniors can already take the property taxes on their current home with them to a new home of lesser value located in the same county or one of the other participating counties in California. The intent of the current rules, outlined in Propositions 60 and 90, is to allow California seniors to downsize to a lesser value home and not have to pay increased property taxes assuming other formalities are met. Without Propositions 60 and 90, even though the new home would be of lesser value than the old home, the property tax bill on the new home could be substantially higher than the old home, particularly if the old home had been owned for many years.

**D. If Proposition 19 Passes**

If passed, the ability to transfer the family home under the current rules will end on **February 15, 2021**. Perhaps more importantly, as of **February 15, 2021**, a parent or grandparent will **no longer** be able to transfer to children or qualifying grandchildren **California real property other than the family home** without a complete and total reassessment of that property.

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.