



Proposition 19 – A Year in Review

Nearly a year has passed since Californians voted yes on Proposition 19, also known as The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act. Proposition 19 was approved in the November 3, 2020 general election. With it came several changes to the California Constitution that came into effect in 2021. With such changes came a tsunami of questions and a desire for clarity from citizens across the Golden State. At McDowall Cotter, we made it our goal to help folks weather the storm. After a year in effect, here is our rundown of Proposition 19:

The Good News: Certain Qualified Homeowners May Be Able to Move from Their Current Primary Residence to a New Primary Residence and Take Their Property Tax with Them

Beginning April 1, 2021, qualified homeowners may transfer the taxable value of their current primary residence to a replacement primary residence. Qualified homeowners are homeowners who are severely disabled, over the age of 55, or victims of a wildfire or other natural disaster. Taxable value is transferrable to the new residence's value or location, provided it is purchased or newly constructed within two years of the date the original residence is sold. Qualified homeowners can move to any county in California. Qualified homeowners can also move and take their property tax with them up to three times. If a qualified homeowner moves to a more expensive home, there will be a reassessment of the new home's value in excess of the value of the old primary residence.

The Bad News: Changes to California's Intergenerational Transfer Exclusions Restrict How Parents Can Pass Property to Their Children

Beginning February 16, 2021, California began limiting the parent-child transfer exclusions applied to changes in real property ownership. Prior to Proposition 19, parents could transfer their existing property assessments of a primary residence of any value without triggering a reassessment even if the child used the property as a rental property. Now, a child may keep the lower property tax base of the parent(s) only if the property is the primary residence of the parent(s) and the child or children make it their principal residence within one year. Additionally, the change in ownership may result in a partial assessment if the market value of the home exceeds the sum of the assessed value plus \$1 million (in the San Francisco Bay Area, most homes do).

Parents with multiple children may be in luck, as a primary residence can qualify for the exclusion so long as any one of the children claims the residence as their primary within one year of the transfer. In the case of apartment complexes, only the unit the parents live in in the building qualified for the exemption; the remainder will be reassessed. Additionally, if the child moves out of the home the property will no longer qualify for the exclusion.

Finally, all parent-to-child transfers of other property will be reassessed to fair market value. Other property is property not classified as the primary residence, such as: vacation homes, rental property, commercial property, apartment complexes, and secondary homes not declared as the parents' primary residence.

Public Backlash: Proposition 19 Possibly on the Chopping Block

Like all newly enacted laws, Proposition 19 is not without its share of naysayers. While it is here to stay (for now), the Howard Jarvis Taxpayers Association has sponsored an initiative to roll back Proposition 19. If passed, the initiative, also known as the Repeal the Death Tax Act, will amend the California Constitution to restore the ability of parents to transfer property to their children upon death without triggering a reassessment and increase in property taxes by restoring Proposition 58 and Proposition 193. Supporters of the Repeal the Death Tax Act assert that Californians were unable to appreciate the negative impacts Proposition 19 had on generational wealth-building, especially among communities whose families worked tirelessly for decades to climb up the economic ladder.

As things evolve, our team at McDowall Cotter continues to keep abreast of any changes in the law that may impact Californians' estate planning and wealth preservation needs. We are constantly coming up with creative solutions to mitigate and work around the effects of Proposition 19. Should you have any questions or would like to learn more, please feel free to consult with one of our attorneys at McDowall Cotter by giving us a call at (650) 572-7933. Our accomplished attorneys work in civil litigation, business services, and estate planning out of our office located in San Mateo. Our experienced and knowledgeable staff will be able to help you with any of your needs or concerns. You can also find McDowall Cotter on Facebook, Instagram, Twitter and LinkedIn @McDowallCotter.

-Melani Tiongson