

Planning Strategies

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Tax Update: California Modifies Property Tax Rules for Parent-to-Child Transfers

Proposition 13 is a California state constitutional amendment that passed by referendum in 1978. Under this rule, California property taxes are based on the purchase price of a property and are subject to small annual increases over time despite a greater rise in the property's actual value. However, when a property is sold or transferred to a new owner, property taxes are reassessed based on the market value of the property. Several exceptions to this rule can apply. One is that parents or grandparents could transfer a "primary residence" to their children or grandchildren without the need for reassessment. Further, they could transfer other types of real property to children with the first \$1 million in value being exempt from reassessment.

In November 2020, California voters passed Proposition 19, which makes a number of changes that affect the ability of parents to transfer real property to children without that property being reassessed for property tax purposes. **The law applies to transfers of real property after February 15, 2021.**

Until Prop 19 takes effect on February 16, 2021, parents can still transfer real estate in two circumstances to children (including trusts for their benefit) where the transferee child can take the property without an increase in property taxes:

1. A *principal residence* can be transferred to children (or trusts for their benefit) without a property tax reassessment. The child does not have to use the home as a principal residence after the transfer.
2. *Other property* having a value up to \$1,000,000 of assessed value may be transferred to children (or trusts for their benefit) without a property tax reassessment. This exception would cover real estate that is not the donor's primary residence, for example.

Changes under Proposition 19 effective February 16, 2021:

As of February, 16, 2021, the exceptions for transfers of real estate to children will apply only to principal residences and there will no longer be an unlimited amount of value that can transfer to a child without a tax adjustment. Proposition 19 completely eliminates the second "other property" exception and the first exception for primary residences is limited in two key ways:

1. Children must reside in the principal residence after the transfer in order to be eligible for the exception to the property tax reassessment; and

2. If the increase in value of the principal residence at the time of the transfer is less than \$1,000,000 more than its assessed value, there will be no reassessment as long as the children use the home as their principal residence after the transfer. However, if the increase in value of the property at the time of the transfer is greater than \$1,000,000 over the assessed value, the property is reassessed at its fair value minus \$1,000,000 (so long as the children reside there after the transfer). (The \$1,000,000 amount is adjusted for inflation annually.)

Anyone who would like to make a transfer of California real estate to take advantage of the existing rules before Proposition 19 takes effect should do so before February 16, 2021. If so, a California attorney should be consulted.



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About 1919 Investment Counsel

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