



QUESTIONS AND ANSWERS FROM THE ASSESSOR RESOURCE WEBINAR: A GUIDE TO INHERITANCE, 1/22/2021

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General

1. DOES PROPOSITION 19 APPLY TO PROPERTY OWNED BY LEGAL ENTITIES (CORPORATIONS, LIMITED LIABILITY COMPANIES, LIMITED PARTNERSHIPS, ETC.)?

The Proposition 19 parent-child/grandparent-grandchild transfer exclusion and base year value transfer provisions apply to transfers by individuals, including those holding property through the medium of a trust. They do not, however, apply to property held by legal entities.

Parent-Child Transfers and Grandparent-Grandchild Transfers

1. WILL THE ASSESSOR'S OFFICE CONSIDER THE EXECUTION DATE OF A DEED FOR THE PURPOSE OF DETERMINING WHETHER OR NOT THE PROPOSITION 58 OR PROPOSITION 19 APPLY?

The Assessor will accept the notarized execution date of a deed, effecting a parent-child transfer, for the purpose of determining whether the provisions of Proposition 58 or Proposition 19 apply.

2. HOW LONG DO PARENTS HAVE TO LIVE IN THE HOME BEFORE THEY PASS AWAY FOR THE CHILD TO BE ELIGIBLE FOR THE PROPOSITION 19 PARENT-CHILD TRANSFER EXCLUSION?

The language of Proposition 19 does not require a parent-transferor to live in the principal residence for a minimum duration before it is transferred to their child, for the transfer to be eligible for the Proposition 19 parent-child transfer exclusion.

3. FOLLOWING THE TRANSFER OF A PRINCIPAL RESIDENCE FROM A PARENT TO A CHILD, HOW LONG IS THE CHILD REQUIRED TO LIVE IN THE PROPERTY, TO RETAIN THE PROPOSITION 19 PARENT-CHILD TRANSFER EXCLUSION?

Under Proposition 19, a child-transferee must claim the homeowners' exemption for the transferred property, to be eligible for the parent-child transfer exclusion. The language of Proposition 19 does not specify how long the child-transferee must occupy the transferred property as their principal residence. The Assessor is awaiting clarification from the Legislature.

4. WHEN A PARENT, WHO HELD THEIR PROPERTY IN A REVOCABLE LIVING TRUST, PASSES AWAY WILL A CHANGE IN OWNERSHIP REASSESSMENT OCCUR?

The owner of property held in a revocable trust is the trustor. Upon the death of the trustor, the trust becomes irrevocable and the beneficial ownership of property held under the trust transfers from the trustor to the named beneficiaries. The transfer of property held under the trust at the time of the trustor's death is a change in ownership and the property is subject to reassessment, absent an applicable exclusion. A date of death transfer occurring before February 16, 2021, will be subject to the Proposition 58 parent-child transfer exclusion provisions. A date of death transfer occurring on or after February 16, 2021 will be subject to the Proposition 19 parent-child transfer exclusion provisions.

continue on page 2

Please note that the death of a real property owner of property held in trust is required to be reported to the Assessor's Office within 150 days of the date of death. Additional information regarding the reporting of the death of a real property owner can be found at the Assessor's website:

assessor.lacounty.gov/death-of-real-property-owner/.

5. IF, WHEN A PARENT PASSES AWAY, THEIR PRINCIPAL RESIDENCE TRANSFERS TO THEIR THREE CHILDREN PURSUANT TO THE TERMS OF THE PARENT'S TRUST, DOES TITLE TO THE PROPERTY HAVE TO BE TRANSFERRED TO THE CHILD THAT MOVES IN AND CLAIMS THE HOMEOWNERS' EXEMPTION, FOR THE PROPOSITION 19 PARENT-CHILD TRANSFER EXCLUSION TO APPLY?

Upon the death of the trustor of a revocable trust, the trust becomes irrevocable and the beneficial ownership of property held by the trust transfers to the beneficiaries named in the trust, in the manner provided for in the trust. If the date of death transfer occurs on or after February 16, 2021, the transfer of the decedent's principal residence will be subject to the Proposition 19 parent-child transfer exclusion provisions. Title to the principal residence does not need to be transferred to only the child that claims the property as their principal residence, for the transfer to be eligible for the exclusion. The Assessor is awaiting clarification from the Legislature.

6. IF A PRINCIPAL RESIDENCE TRANSFERS FROM PARENT TO CHILD, THROUGH THE MEDIUM OF A TRUST, IS THE TRUSTEE REQUIRED TO FILE A HOMEOWNERS' EXEMPTION FOR THE PROPERTY, FOR THE PROPERTY TO BE ELIGIBLE FOR THE PROPOSITION 19 PARENT-CHILD TRANSFER EXCLUSION?

Upon the death of the trustor of a revocable trust, the trust becomes irrevocable and the beneficial ownership of property held by the trust transfers to the beneficiaries named in the trust, in the manner provided for in the trust. If the date of death transfer occurs on or after February 16, 2021, the transfer of the decedent's principal residence will be subject to the Proposition 19 parent-child transfer exclusion provisions. One of the beneficiaries - to whom the property has been transferred as of the trustor's date of death - must claim the homeowners' exemption in connection with the property within one year of the transfer. The trustee of the trust need not claim a homeowners' exemption in connection with the property.

7. HOW SOON AFTER THE DEATH OF A TRANSFEROR DOES TITLE HAVE TO BE TRANSFERRED INTO THE NAME OF THE TRANSFEREE?

For assessment purposes, there is no specific period of time within which title to property must be changed after the property owner passes away; however, the Assessor's Office must be notified upon the death of an owner within 150 days of the date of death, or if the estate is probated at the time the inventory and appraisal is filed. Additional information regarding the reporting of the death of a real property owner can be found at the Assessor's website: assessor.lacounty.gov/death-of-real-property-owner/.

8. HOW DOES PROPOSITION 19 APPLY TO A PRINCIPAL RESIDENCE HELD BY PARENTS AND CHILDREN, AS JOINT TENANTS?

If parents and children acquire property as joint tenants, a change in ownership will occur as to the interest transferred upon the termination or transfer of any of the joint tenant's interest. If such transfer occurs between parents and children before February 16, 2021, the transferee may claim a Proposition 58 parent-child transfer exclusion. If the transfer occurs between parents and children on or after February 16, 2021, the children may claim a Proposition 19 parent-child transfer exclusion.

continue on page 3

Alternatively, if parents add their child on title as joint tenants, the property will not be reassessed. However, upon the death of the surviving parent, the property will undergo a 100% change in ownership and be subject to reassessment. If the surviving parent's death occurs before February 16, 2021, the children may claim a Proposition 58 parent-child transfer exclusion. If the surviving parent's death occurs on or after February 16, 2021, the children may claim a Proposition 19 parent-child transfer exclusion.

9. WHEN PROPERTY IS CO-OWNED AND A PARTIAL INTEREST IS TRANSFERRED FROM PARENTS TO CHILDREN, HOW DOES THE PROPOSITION 19 PARENT-CHILD TRANSFER EXCLUSION APPLY?

The language of Proposition 19 does not specify. The Assessor is awaiting clarification from the Legislature.

Base Year Value Transfers

1. IF THE SALE OF THE ORIGINAL PROPERTY AND THE PURCHASE OF THE REPLACEMENT PROPERTY BOTH OCCUR BEFORE APRIL 1, 2021, WILL THE BASE YEAR VALUE TRANSFER PROVISIONS UNDER PROPOSITION 19 APPLY?

No. If both the sale of the original property and the purchase of the replacement property occurred before April 1, 2021, the base year value transfer provisions under Proposition 60/90 apply.

2. IF THE SALE OF THE ORIGINAL PROPERTY OCCURS BEFORE APRIL 1, 2021 AND THE PURCHASE OF THE REPLACEMENT PROPERTY OCCURS AFTERWARD, WILL THE BASE YEAR VALUE TRANSFER PROVISIONS UNDER PROPOSITION 19 APPLY?

If an original property is sold before April 1, 2021, and a replacement property is purchased afterward, the transfer of the original property's base year value to the replacement property is subject to the Proposition 19 base year value transfer provisions.

3. ARE THE SALE OF THE ORIGINAL PROPERTY AND PURCHASE OF THE REPLACEMENT PROPERTY REQUIRED TO OCCUR IN A PARTICULAR ORDER, FOR THE BASE YEAR VALUE TRANSFER PROVISIONS UNDER PROPOSITION 19 TO APPLY?

Under Proposition 19, either the sale of the original property or purchase of the replacement property may occur first.

4. WHEN DOES A BASE YEAR VALUE TRANSFER UNDER PROPOSITION 19 BECOME EFFECTIVE – THE DATE A CLAIM IS FILED, THE DATE THE ORIGINAL PROPERTY IS SOLD, THE DATE THE REPLACEMENT PROPERTY IS PURCHASED, ETC.?

The language of Proposition 19 does not specify. The Assessor is awaiting clarification from the Legislature.

5. UNDER PROPOSITION 19, HOW IS DISABILITY DEFINED?

The language of Proposition 19 does not specify; however, Revenue and Taxation Code section 74.3(b) defines a "severely and permanently disabled person" as "any person who has a physical disability or impairment, whether from birth or by reason of accident or disease, that results in a functional limitation as to employment or substantially limits one or more major life activities of that person, and that has been diagnosed as permanently affecting the person's ability to function, including, but not limited to, any disability or impairment that affects sight, speech, hearing, or the use of any limbs."

continue on page 4

Specific

1. HOW DOES PROPOSITION 19 APPLY TO PROPERTIES SUBJECT TO THE MILLS ACT?

Under Proposition 19, a transfer of property subject to the Mills Act may be eligible for a parent-child/grandparent-grandchild exclusion. Additionally, under Proposition 19, a base year value may be transferred to or from a property subject to the Mills Act.

2. WILL THE BOARD OF EQUALIZATION'S GUIDANCE REGARDING SHARE-AND-SHARE-ALIKE ALLOCATIONS AND DISTRIBUTIONS CONTINUE TO APPLY FOR PURPOSES OF REVIEWING PROPOSITION 19 PARENT-CHILD/GRANDPARENT-GRANDCHILD TRANSFER EXCLUSION CLAIMS?

The Board of Equalization has not issued information to suggest that its guidance regarding share-and-share-alike (non pro rata) allocations and distributions is no longer valid or otherwise in effect, under Proposition 19. Evidence of a trustee's ability and exercise of their ability to make non-pro rata allocations and distributions of an estate will continue to be required when such allocation and/or distribution is asserted.

Fact-Specific Illustrations

ILLUSTRATION 1

1. A MOTHER AND FATHER TRANSFER A PIECE OF COMMERCIAL PROPERTY TO THEIR REVOCABLE LIVING TRUST. THE FATHER PASSES AWAY AND PURSUANT TO THE TERMS OF THE TRUST, THE PROPERTY IS TRANSFERRED TO AN IRREVOCABLE SUBTRUST FOR WIFE'S SOLE BENEFIT DURING HER LIFE. WHEN WIFE PASSES AWAY, PROPERTY HELD UNDER THE SUBTRUST WILL PASS TO THE MOTHER AND FATHER'S CHILDREN. UPON HUSBAND'S DEATH THERE IS NO CHANGE IN OWNERSHIP BECAUSE OF THE INTERSPOUSAL EXCLUSION.

IF THE MOTHER PASSES AWAY BEFORE FEBRUARY 16, 2021, WILL THE PARENT-CHILD TRANSFER EXCLUSION PROVISIONS UNDER PROPOSITION 58 OR PROPOSITION 19 APPLY?

If the wife's death were to occur before February 16, 2021, the date of death transfer would be subject to the Proposition 58 parent-child transfer exclusion provisions. The Proposition 58 non-principal residence exclusion allowance that may be used would be the father's, as he was the creator of the remainder interest that vested in the children when the mother's life estate in the subject property terminated at the time of her death.

2. IF MOTHER PASSES AWAY ON OR AFTER FEBRUARY 16, 2021, WILL THE PARENT-CHILD TRANSFER EXCLUSION PROVISIONS UNDER PROPOSITION 58 OR PROPOSITION 19 APPLY?

If the mother's death were to occur on or after February 16, 2021, the date of death transfer would be subject to the Proposition 19 parent-child transfer exclusion provisions. Under Proposition 19, no parent-child transfer exclusion would be available, as the commercial property was not the mother and father's principal residence.

continue on page 5

ILLUSTRATION 2

- 1. A FATHER AND SON OWN A PROPERTY, IN WHICH THE SON RESIDES, BUT THE FATHER DOES NOT. UPON THE FATHER'S DEATH, THE FATHER'S INTEREST IN THE PROPERTY TRANSFERS TO THE SON. IS THE TRANSFER FROM FATHER TO SON ELIGIBLE FOR THE PARENT-CHILD TRANSFER EXCLUSION UNDER EITHER PROPOSITION 58 OR PROPOSITION 19?**

If the father passes away before February 16, 2021, the transfer of the father's interest in the property may be eligible for the Proposition 58 non-principal residence exclusion. If the father passes away on or after February 16, 2021, the transfer of the father's interest in the property will not be eligible for the Proposition 19 parent-child transfer exclusion, as the property was not the father's principal residence.