

January 11, 2021

FAQs - Intergenerational Transfers under Proposition 19

Why did C.A.R. sponsor Proposition 19?

California is facing a housing crisis with a severe shortage of homes for sale to meet the demand. The passage of this initiative will have significant positive consequences both short-term and long-term for real estate and the housing market.

More than half of Californians have considered moving out of state because of the high cost of housing. And recently, companies such as Tesla, Oracle, Hewlett Packard and Charles Schwab announced they are moving their headquarters out of state.

Proposition 19 allows homeowners who are 55 and older, people with severe disabilities, wildfire or natural disaster victims to transfer their current property tax base to a replacement home anywhere in California. By making it more affordable for seniors to move to a home that better fits their needs, it will open housing inventory to make more homes available for new families and first-time homeowners.

Why did C.A.R. allow the removal of benefits and protections of intergenerational transfers under Prop 19?

The media and state legislators had already targeted family transfers for significant reform or complete elimination. Without Prop 19, the elimination of all intergenerational transfers was at stake. Media headlines from 2018 include:

- LA Times: “California homeowners get to pass low property taxes to their kids. It’s proved highly profitable to an elite group”
- AP News: “CA Bill Targets Tax Breaks for Wealthy Homeowners”
- Biz Journals: “Mayors Want to End Tax Breaks on Second Homes”
- SF Chronicle: “Tax Shelter Saves Children Big Bucks on Inherited Property”

With the urgent need for revenue by state and local budget governments, removal of intergenerational transfer tax rules was imminent – which is why it was so important to preserve and protect this right under the initiative.

Proposition 19 safeguards family transfers as a right in the California State Constitution, protecting tax savings for children and grandchildren on the family home.

What are the new rules on intergenerational family transfers and family farms?

Proposition 19 also changes the rules on exemptions from reassessment for intergenerational transfers by limiting the exemption to the transfer of a primary residence to a child (or grandchild) only when the property continues to be used as a family home by the child (or grandchild), and even then, if the divergence between the taxable value and the actual value is too great, a partial increase in the new taxable value will be imposed. As is the case under current law, under Prop. 19, a grandparent-to-grandchild transfer receives the exemption only if the parents are deceased. Proposition 19 also includes provisions that would allow the transfer of a family farm to retain its taxable value. **These new rules apply to any purchase or transfer beginning February 16, 2021.**

If I pass my principal residence on to my children or grandchildren, will the property be reassessed?

So long as the property continues to be used as a Family Home (primary residence), and the transferee claims the homeowner exemption, the property tax basis will remain the same, subject to some upward adjustments if the property value, at the time of transfer, is more than \$1M over the original tax basis.

If the property is transferred to a child or grandchild and used as a Family Home, what will the new tax basis be if at the time of transfer the property value is less than \$1M over the original tax basis?

The new tax basis will remain the same as the original tax basis. For example, if the original tax basis was, let's say, \$500,000, and at the time of transfer the property is valued at \$1.2 M, then the tax basis will remain at \$500,000. This is because \$1.2M is not more than \$1M over the original taxable basis.

If the property is transferred to a child or grandchild and used as a Family Home, what will the new tax basis be if at the time of transfer the property value is more than \$1M over the original tax basis?

If the property at the time of transfer is more than \$1M over the original tax basis then the new tax basis will be the value of the property at the time of transfer minus \$1M. For example, if the original tax basis was, let's say, \$500,000, and at the time of transfer the property is valued at \$2M then the new taxable value will be \$1,000,000 (\$2M

minus \$1M). You use this formula because the value of the property at time of transfer was more than \$1M over the taxable basis.

Are Family Farms included in Proposition 19?

Yes, Family Farms have the same exemptions as Family Homes (principal residences). "Family Farm" means any real property under cultivation or which is being used for pasture, or grazing, or that is used to produce any agricultural commodity. It does not require the transferee to live in the property as a principal residence.

When do these family transfer rules take effect?

The family transfer rules take effect February 16, 2021. The transferee would have to claim the homeowner's or disabled veteran's exemption within one year of the transfer to obtain the benefit of the family transfer tax exemption.

Intergenerational transfers previously exempted not only the transfer of the tax basis of a primary residence but also up to \$1 million dollars of all other real property. Is that exemption still available under Prop 19?

No. Prop 19 allows only the intergenerational transfer exemption only for the primary residence and only if it continues to be used as a primary residence.

Will this initiative raise my taxes?

No. The initiative will limit property tax increases for seniors, people with severe disabilities, wildfire or natural disaster victims. It will also limit property tax increases on the family home used as a primary residence, keeping family homes affordable.

Where can I find more specific information about tax portability and intergenerational transfers?

Legal FAQs on Tax Portability is available here:

<https://www.car.org/riskmanagement/ga/taxfolder/prop19>