



MALIA M. COHEN

CHAIR
STATE BOARD OF EQUALIZATION

May 21, 2019

TO: Members of the Board of Equalization

FROM: Malia M. Cohen, Chairperson

RE: Board of Equalization Board Meeting, May 29, 2019
Item L.2. AB 872 (Aguiar-Curry) Parent-Child Exclusions

I am placing this item before you for discussion and possible action to support [Assembly Bill 872 \(Aguiar-Curry\)](#), sponsored by State Treasurer Fiona Ma, regarding parent-child exclusions issue revealed in the Board of Equalization's Property Taxpayers' Bill of Rights hearing in 2016.

The following statement from Treasurer Ma has been included as part of the [Assembly Revenue and Taxation Bill Analysis, dated May 3, 2019](#):

As the former Chair of the State Board of Equalization and one of California's highest-ranking fiduciaries, I am proud to sponsor AB 872 which closes a loop hole in the tax code by protecting children living on a small family farm from a property tax reassessment in the event they became owners of the farm after the death of a parent, under limited circumstances. I first became aware of this loophole in 2016, when a case presented to us at a Board of Equalization Property Taxpayer Rights Advocate hearing revealed an inequity for children living on a small family farm after the death of a parent.

Due to the sequence and timing of [various] events, no tax relief could be offered without legislation to address this inequity on a going-forward basis. AB 872 resolves this inequity by making the tax code consistent with Prop 58 to protect children on family farms after the death of the parents and protect agricultural open space as intended under the Williamson Act/Prop 13. Furthermore, it protects children still living in their family home from an unfair tax increase.

AB 872 (Aguiar Curry) is a narrowly tailored solution to this issue, as stated in the [Board of Equalization's Bill Analysis \(April 11, 2019\)](#):

"This bill proposes a retrospective change in ownership parent-to-child exclusion for any transfer of stock in a qualified corporation that owns qualified real property, occurring between January 1, 2014 and January 1, 2020, as long as the transfer is due to the death of a parent.

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Qualified Corporation. This bill provides that a "qualified corporation" is a corporation that meets all the following conditions:

- *Created between March 1, 1975 and November 6, 1986, inclusive.*
- *The only real property owned by the corporation is qualified property.*
- *The only stockholders of the corporation are parents and their children.*

Qualified Property. This bill provides that, for purposes of this exclusion, "qualified property" is a parcel of land that satisfies both of the following requirements:

- *Contains the principal place of residence of the parents prior to their death that has been the continuous place of residence of a child of those parents since the creation of the qualified corporation.*
- *Its adjusted base year value as of the date immediately prior to the date of death of the last surviving parent does not exceed \$1 million."*

The revenue impact of this change would be minimal, and the BOE would incur costs to reprogram the Legal Entity Ownership Program system to accommodate this new exclusion. The limited impact of AB 872 was described in the BOE Bill Analysis:

Narrow in Scope. Under this bill, the exclusion would apply only to corporations that were created between March 1, 1975 (the effective date of Proposition 13) and November 6, 1986 (the effective date of RTC section 63.1, which implements the parent-child exclusion). Thus, this exclusion would not apply to any other type of legal entity, such as a partnership or limited liability company. In addition, we note:

- *The only corporations that would qualify would be those corporations whose only stockholders are parents and their children. A corporation that includes grandchildren would not qualify.*
- *The only transfer that would qualify is one that occurs on the parent's date of death. Voluntary transfers of interest in a legal entity would not qualify. A transfer to a parent that occurs on a child's date of death would not qualify.*
- *The only property the corporation could own would be land on which the principal residence of the parents and child is located. This exclusion would not apply if the legal entity owns any other land.*

Acknowledging that this issue was raised in the Board's Taxpayers' Bill of Rights Hearing, and the Board of Equalization's analysis of AB 872 states that it is narrow in scope and would have minimal fiscal impact, I believe it is a matter appropriately before us for discussion and action.

I also respectfully recommend that the Board take an official action to support AB 872, and that Executive Director prepare a letter of support on behalf of the Board.