



SOURCE: Property Tax Department

SUMMARY: This proposal amends Revenue and Taxation Code (RTC)¹ sections 62.1, 62.5, and 69.4 to include references to section 63.2 relating to the intergenerational transfer exclusion and amends section 69.4 to include reference to section 69.6 relating to the over 55/severely disabled/disaster base year value transfer.

EXISTING LAW: Current law requires County Assessors to reassess real property from its Proposition 13 protected value (called the "base year value") to its current market value whenever a change in ownership or new construction occurs.² Exceptions to this reassessment requirement have been enacted.

Operative February 16, 2021, Proposition 19 replaced the then existing parent-child and grandparent-grandchild exclusion with a new intergenerational transfer exclusion that applies, generally, to a transfer of a family home or family farm if the property continues as the family home or family farm of the transferee.

Family Home. Family home has the same meaning as "principal residence," as used in subdivision (k) of Section 3 of Article XIII of the California Constitution. Proposition 19 provides that "family home" includes a "family farm," which means any real property that is under cultivation or being used for pasture or grazing or to produce any agricultural commodity, defined as any and all plant and animal products produced in California for commercial purposes.³

Principal Place of Residence. To qualify for this benefit, Proposition 19 requires that (1) the home must be the principal residence of the transferor and continue as the principal residence of the transferee and (2) the transferee must file for the homeowners' or disabled veterans' exemption.

Principal Residence Value Test. Proposition 19 provides that the existing taxable value (factored base year value) of the principal residence will remain if the fair market value is less than the sum of the taxable value of the principal residence of the transferor plus \$1 million. If the fair market value is equal to or exceeds the sum of the taxable value of the principal residence of the transferor plus \$1 million, then the difference between (1) the sum of the taxable value plus \$1 million, and (2) the fair market value, is to be added to the property's existing taxable value to create the new taxable value.

Adjustment of \$1 Million. Beginning February 16, 2023, the \$1 million amount will be biennially adjusted by an inflation factor that is the percentage change in the House Price Index (HPI) for California for the prior calendar year, as determined by the Federal Housing Finance Agency. The BOE is required to calculate and publish the adjustments.

¹ All references will be to the Revenue and Taxation Code unless otherwise specified.

² California Constitution, Article XIII A, section 2.

³ Government Code section 51201 provides that "agricultural commodity" means any and all plant and animal products produced in California for commercial purposes, including, but not limited to, plant products used for producing biofuels, and industrial hemp cultivated in accordance with Food and Agricultural Code division 24 (commencing with section 81000).

Grandparent-Grandchild Middle Generation Limitation. Proposition 19 provides that the exclusion applies to a transfer between grandparents and grandchildren if all of the parents of those grandchildren, who qualify as children of the grandparents, are deceased as of the date of the purchase or transfer.

Over 55/Severely Disabled/Victims of Wildfire or Natural Disaster Base Year Value Transfer. Operative April 1, 2021, Proposition 19 allows homeowners at least age 55 years, severely disabled persons, or victims of a wildfire or natural disaster to sell their existing home (called the "original property"), buy or build a new one, and transfer their base year value to the new home (replacement home). This benefit gives homeowners property tax relief by allowing property taxes to remain essentially the same⁴ after the move, provided they purchase or newly construct a home of equal or lesser value. The replacement home must be purchased or newly constructed within 2 years, before or after, the original property's date of sale.

- **Principal Place of Residence.** To qualify for this benefit, both the original property and the replacement home must be eligible for either the homeowners' or the disabled veterans' exemption, based on the claimant's ownership and occupation of the home as a principal place of residence.⁵
- **Original Property.** The original property must be sold.
- **Replacement Property.** The replacement property must be purchased or newly constructed within two years of the sale of the original property.
- **Location.** The replacement property can be located anywhere in California.
- **Value.** The base year value may be transferred to a home of equal or lesser value. However, if the value of the replacement home is *greater* than the value of the original property, the difference in market values must be added to the transferred base year value.
- **Limitation on the Number of Base Year Value Transfers.** Homeowners over age 55 or severely disabled may use this base year value transfer up to three times.

In 2021, the Legislature passed the Proposition 19 implementation bill (SB 539) which added section 63.2 and 69.6 clarifying portions of section 2.1 of article XIII A of the California Constitution regarding the intergenerational transfer exclusion and the base year value transfer for certain individuals.⁶

IDENTIFICATION OF PROBLEM: Certain RTC code sections do not reflect the intergenerational transfer or base year value transfer provisions enacted by the Legislature in 2021.

PROPOSED SOLUTION: Amend RTC sections 62.1, 62.5, and 69.4 to include references to section 63.2 relating to the intergenerational transfer exclusion and amend section 69.4 to include reference to section 69.6 relating to the over 55/disabled/disaster base year value transfer.

JUSTIFICATION

A. Briefly describe the ramifications of not acting.

⁴ The property tax bill for the new home may not be identical to the property tax bill of the original home because the precise tax rate and direct levies (special assessments, parcel taxes, etc.) differ for each home's location.

⁵ RTC sections 69.6(b)(2), 69.6(b)(4), and 69.6(d)(11).

⁶ SB 539 (Hertzberg, Stats. 2021, Ch. 427).

Without adopting these proposed changes, the property law will not accurately reflect changes made by SB 539 relating to Proposition 19 intergenerational transfer exclusions and the over 55/disabled/disaster base year value transfers.

- B. State the reasons why the BOE should have the responsibility for this program and why it should not be placed at another level of government (if applicable).

Article XIII A, section 2.1 of the California Constitution added by Proposition 19 in 2020, made changes to the intergenerational transfer exclusion and the over 55/severely disabled/disaster base year value transfer provisions. In the implementation of Proposition 19, the BOE is responsible for clarifying rules, implementing regulations, providing guidance to County Assessors regarding the changes, and additionally tracking the number of base year value transfers made by individuals.

- C. Note whether a similar proposal has been submitted in the past and the outcome.

Proposals have been submitted in the past and have been enacted by previous governors. A more detailed history is discussed in the program background and legislative history section.

PROGRAM BACKGROUND/LEGISLATIVE HISTORY: Prior parent-child and grandparent-grandchild exclusion.

In 1986, the voters approved Proposition 58, which, in part, added subdivision (h) to section 2 of article XIII A of the California Constitution. Subdivision (h) provides that the terms *purchased* and *change in ownership* exclude the purchase or transfer of:

- A principal residence between parents and their children. There is no limit as to the value of the principal residence or how many principal residences may be transferred.
- The first \$1 million of the base year value⁷ of all real property other than a principal residence between parents and children (called "other property"). Each person may transfer real property to any combination of parents and/or children up to \$1 million cumulatively over a lifetime.

Revenue and Taxation Code (RTC) section 63.1 implements the parent-child exclusion. The parent-child exclusion applies to changes in ownership that occur on or after November 6, 1986.

In 1996, the voters approved Proposition 193, which amended subdivision (h) to extend the parent-child exclusion to transfers from grandparents to grandchildren if certain members of the intervening parent generation are deceased. Section 63.1 was subsequently amended to reflect these new provisions. The grandparent-grandchild exclusion applies to changes in ownership that occur on or after March 27, 1996.

Section 2.1(d) (added by Proposition 19 on November 3, 2020) specifically provides that subdivision (h) of section 2 becomes inoperative on February 16, 2021.

Proposition 19, approved by the voters on November 3, 2020, as relevant here, added section 2.1 to article XIII A of the California Constitution to provide the following two types of property tax relief:

⁷ Article XIII, section 2(h) uses the term "full cash value." RTC section 63.1 provides that "full cash value" means full cash value as defined in section 110.1, which describes a property's base year value, not its current market value.

- Operative February 16, 2021, sections 2.1(c) and (d) replaced the former parent-child and grandparent-grandchild exclusions with a new intergenerational transfer exclusion, if the property continues as the family home or family farm of the transferee, and applies a specified value test to the family home or family farm to determine the resulting taxable value.
- Operative April 1, 2021, section 2.1(b) allows a base year value transfer for homeowners who are over age 55, severely disabled, or victims of a wildfire or natural disaster to a replacement home in California, regardless of location or value.

For property tax purposes, the law requires County Assessors to reassess real property from its Proposition 13 protected value (called the "base year value") to its current market value whenever a change in ownership occurs.⁸ Exceptions to this reassessment requirement have been enacted, including base year value transfers for property owners whose property has been damaged or destroyed in a disaster for which the Governor proclaimed a state of emergency.

ARGUMENTS PRO AND CON

Pros

- Updates property tax code sections to reference changes made by Proposition 19 and SB 539 in 2021.

Cons

- None.

PROBABLE SUPPORT AND OPPOSITION: Unknown

OTHER EXTERNAL PARTIES THAT MAY BE AFFECTED: None.

FISCAL IMPACT (If known)

A. Identify any computer or desktop programs that would be affected by this proposal.

None.

B. Identify additional staffing and workload required to carry out the proposal.

None.

PERFORMANCE INDICATORS: Not applicable.

DRAFT LANGUAGE

Section 62.1 of the Revenue and Taxation Code is amended to read:

62.1. (b) (1) If the transfer of a mobilehome park has been excluded from a change in ownership pursuant to paragraph (1) of subdivision (a) and the park has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer on or after January 1, 1989, of shares of the voting stock of, or other ownership or membership interests in, the entity that acquired the park in accordance

⁸ Article XIII A, section 2.

with paragraph (1) of subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for the purpose of converting the park to condominium, stock cooperative ownership, or limited equity cooperative ownership or is excluded from change in ownership by Section 62, 63, ~~or~~ 63.1, or 63.2.

Section 62.5 of the Revenue and Taxation Code is amended to read:

62.5. (b) (1) If the transfer of a floating home marina has been excluded from a change in ownership pursuant to subdivision (a) and the floating home marina has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer of shares of the voting stock of, or other ownership or membership interests in, the entity that acquired the floating home marina in accordance with subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the floating home marina, unless the transfer is for the purpose of converting the floating home marina to condominium, stock cooperative ownership, or limited equity cooperative ownership, or is excluded from change in ownership by Section 62, 63, ~~or~~ 63.1, or 63.2.

Section 69.4 of the Revenue and Taxation Code is amended to read:

69.4. (c) (1) Upon the sale or transfer of the original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1.

(2) This section does not apply unless the sale or transfer of the original property is a change in ownership that does either of the following:

(A) Subjects the original property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803.

(B) Results in a base year value determined in accordance with this section, Section 69, Section 69.3, ~~or~~ Section 69.5, or Section 69.6 because the property qualifies under this section, Section 69, Section 69.3, ~~or~~ Section 69.5, or Section 69.6 as a replacement dwelling or property.

(d) Property tax relief under this section is not available for a replacement property if the owner or owners of the original property do either of the following:

(1) Receive property tax relief under Section 74.7.

(2) Sign a claim under Section 63.1 or 63.2 allowing the base year value to stay with the original property.