

Office of the Assessor

County of Santa Clara

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Lawrence E. Stone, Assessor



March 26, 2021

Sent via email to glenna.schultz@boe.ca.gov

Glenna Schultz
California State Board of Equalization
Property Taxes Department
P.O. Box 942879
Sacramento, CA 94279-006

Re: Proposed Property Tax Rule 462.520

Dear Glenna,

I write to both commend the staff for the initial draft rule for implementing the intergenerational portion of Proposition 19 and to make several recommended changes.

1. Non-Pro Rata Share Distribution

Currently, when two siblings inherit a home and other assets equal to the value of the home, they can allocate 100% of the home to one sibling and 100% of the other assets to the other sibling without triggering a sibling reassessment.

Under Proposition 19, at least one eligible beneficiary of a parent-to-child trust must use the home as their principal residence within one year of transfer. Thereafter, the exclusion is maintained as long as an eligible beneficiary claims the home as their principal residence.

However, in a non-pro rata distribution where one sibling becomes the sole beneficiary/owner of the home, the second sibling is no longer an eligible beneficiary, and is unable to claim the home as their principal residence for the purposes of the Proposition 19 exclusion.

As we anticipate confusion concerning non-pro rata share distributions and Proposition 19, we request an example that makes clear only a beneficiary of the principal residence is an “eligible transferee” for exclusion purposes, either at the time of transfer or in later years.

2. Filing Process: One year vs. Three years

As drafted, the proposed rule requires the applicant file a claim for the homeowners' or disabled veterans' exemption within one year of the transfer (as required by ACA 11). However, the applicant has three years from the date of transfer to file a claim for this benefit to receive retroactive relief. We anticipate significant confusion relating to the differences between the one year and three year requirements. For example, it may be more than one year before an assessor mails out a homeowners' claim card and/or an

assessment notice. As a result, an otherwise qualified beneficiary may not be aware of the one year requirement to reside in the home as their principal residence to be eligible for Proposition 19. We request an example in the rule that makes explicit the one year exemption filing requirement in relationship to the three year claim filing period.

In addition, we request clarity as to the filing process when a subsequent sibling seeks to replace the original qualifying sibling. Presumably, the subsequent sibling would have one year from the date the original sibling no longer claimed a home as their principal residence to move in and file for a homeowners' or disabled veterans' exemption, and then up to three years to file a claim for the exclusion. An example illustrating would be informative for taxpayers. It might even be combined in an example under #1 above.

3. Application of Joint Tenancy and Prop. 19 Intergenerational Exclusions

Parent-to-child transfers received near the Proposition 19 intergenerational effective date of 2/16/2021 may qualify for exclusion under Rev. and Tax Code 65(b). However, due to the timing and non-reassessment of these properties, our office is concerned that owners may believe they qualify for exclusion under Proposition 58/193, not Proposition 19 (see example below). In anticipation of the confusion, we request examples, such as below, that illustrate the basis for an exclusion. This will help prepare owners for likely future reassessment under Proposition 19.

Example 1: On 2/01/2021, a parent who is the original owner of their home, adds their child to their principal residence as a joint tenant. They also indicate on their PCOR that it is a parent-to-child transfer and file a Prop 58/193 claim. On 5/20/2024, the parent dies. When the parent adds the child as a joint tenant on 2/01/2021, the transfer is excluded under the Rev. and Tax Code 65(b). Subsequently, when the parent, the original transferor, dies on 5/20/2024, a change of ownership will occur as of the date of death. The transfer on 5/20/2024 will be for 100% interest, and will be subject to Prop. 19.

Under Proposition 19 guidelines, the child will need to do the following to qualify:

- A. File a homeowner's exemption claim within one year of mother's death.
- B. Move into the family home within one year of mother's death, or continue to reside in the family residence.
- C. Timely complete and file the Proposition 19 exclusion claim form.

4. Example 7-1 through 7-4

In PTR Examples 7-1 through 7-4, staff has selected "three" years to illustrate what occurs when a second eligible beneficiary applies for the benefit after the first beneficiary moves out of the property. As the filing of a claim also allows for three years from the date of transfer, the use of three years in this example could be confused with the three year claim-filing timeframe. As such, we request these examples be modified to a longer time period, such as five or more years, so as to not be confused with the three year claim-filing deadline.

March 26, 2021

To: Ms. Schultz

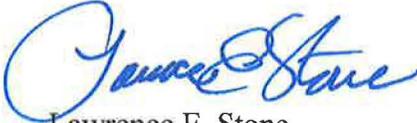
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Conclusion

I would like to thank the Board of Equalization's staff for their proactive collaborative partnership with California Assessors. The resulting draft rules, guidance, and public information have been very helpful to my office and taxpayers.

Sincerely,



Lawrence E. Stone
Assessor

cc: Ernest Dronenburg, Assessor, San Diego County, CAA President
Tom Bordonaro, Assessor, San Luis Obispo, CAA Chair Ad-Hoc Committee on Prop. 19
Implementation
California Assessors
David Yeung, Deputy Director, Property Tax, Board of Equalization
Members, Board of Equalization