

UNDERSTANDING PROPOSITION 19

WILDFIRE VICTIMS

SENIORS

HEIRS

On November 3, 2020, California voters approved Proposition 19, The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act.

The effective dates for Proposition 19 are February 16, 2021 (intergenerational transfer exclusion) and April 1, 2021 (base year value transfer). Proposition 19 did not have companion legislation. Therefore, these frequently asked questions (FAQs) are intended to help property taxpayers navigate those new provisions. If additional legislation is enacted or further guidance is issued by the California State Board of Equalization (BOE), these FAQs will be updated on the website: <https://www.boe.ca.gov/prop19/#FAQs>

Base Year Value Transfers

Under Proposition 19, will I qualify for the base year value transfer if I purchase my replacement home now and sell my original home on or after April 1, 2021? Alternatively, will I qualify if I sell my original home now and purchase a replacement home on or after April 1, 2021?

Proposition 19 requires the transfer of the base year value to occur on or after April 1, 2021. It does not require that both the primary residence be sold and the replacement primary residence be purchased on or after April 1, 2021. Therefore, in most cases, as long as either the primary residence is sold or the replacement primary residence is purchased on or after April 1, 2021, the base year value of the primary residence can be transferred to the replacement primary residence under Proposition 19. However, future legislation may impact the operation of Proposition 19 and any updates will be posted on the BOE website.

Is Proposition 19 retroactive and would it cause property transfers that have already received the benefit of Proposition 60/90 to be reassessed?

The Proposition 19 operative date for the base year value transfer provisions is April 1, 2021. It is not expected that base year value transfers that have already been processed under Propositions 60/90 and Proposition 110 will be affected.

If I used my one-time base year value transfer under Proposition 60/90, can I transfer that base year value three more times under Proposition 19?

It is anticipated that three transfers under Proposition 19 will be allowed regardless of whether a property owner transferred a base year value in the past under Propositions 60/90 and Proposition 110. Future legislation may impact the operation of Proposition 19.

Can I transfer my base year value to a home of any value?

Yes; however, if the full cash value of the replacement home is greater than the full cash value of the original home, the difference in full cash values will be added to the transferred factored base year value.

For example, an original home was sold and had a full cash value of \$400,000 and a factored base year value of \$100,000 at time of sale. If a replacement home is purchased for a full cash value of \$600,000, the difference of \$200,000 (\$600,000 - \$400,000) is added to the factored base year value of \$100,000. Thus, the replacement home will have a new base year value of \$300,000 (\$100,000 + \$200,000).

Is Proposition 19 retroactive to disasters that occurred in 2020?

Proposition 19 is effective on and after April 1, 2021, and also requires that a replacement primary residence is purchased or newly constructed as a person's principal residence within two years of the sale of the original primary residence. Proposition 19 is not dependent on the date of disaster. However, future legislation may impact the operation of Proposition 19.

To qualify for the base year value transfer, does the homeowner have to be age 55 or over and disabled and a victim of a disaster (all three)?

No, under Proposition 19, a homeowner may qualify for the base year value transfer under any one of the three categories listed; they do not need to meet all three categories in order to qualify.

Parent-Child and Grandparent-Grandchild Transfers

Is Proposition 19 retroactive and would it cause property transfers that have already received the benefit of Proposition 58 (Parent-Child Exclusion) to be reassessed?

No, Proposition 19 is clear that Proposition 58 applies to transfers that occur on or before February 15, 2021, and that Proposition 19 applies to transfers that occur on or after February 16, 2021.

If a family home is gifted to two children, do both children have to reside in the family home as their primary residence in order to receive the parent-child exclusion?

The BOE believes the intent of the Legislature was to allow the exclusion as long as the parent's family home becomes the family home of at least one of the children.

Under Proposition 19, if I inherit my parent's family home and move into it and establish it as my principal residence, must I live continually in the home to receive the parent-child exclusion? What happens if I move somewhere else?

The BOE believes that at least one eligible transferee must continually live in the property as his or her family home for the property to maintain the exclusion. Thus if the property is no longer your family home, it will receive a new taxable value. The new taxable value will be the fair market value of the home on the date you inherited it, adjusted each year for the inflation factor, which is published by the BOE annually.

Does Proposition 19 apply to a transfer of a rental home?

No, Proposition 19 limits the parent-child exclusion to a transfer of a family home that is the principal residence of the transferor and becomes the principal residence of the transferee.

Do we need to submit our application for the parent/child exclusion prior to the February 16, 2021 operative date to qualify for the exclusion under Proposition 58/193?

As long as the date of transfer or change in ownership of real property between parent and child occurs on or before February 15, 2021, the transfer will qualify for the exclusion under Proposition 58/193. Therefore, as long as the claim is filed with the County Assessor within three years of the date of transfer or before a transfer to a third party or within six months of the date of notice of supplemental or escape assessment. Thus, the claim does not need to be filed by February 16, 2021.

Will I lose the parent-child exclusion if the value of the family home is greater than \$1 million dollars?

The value limit under Proposition 19 is the sum of the factored base year value plus \$1 million. If the market value exceeds this limit, partial relief is available.

The amount exceeding the excluded amount will be added to the factored base year value.

For example, a family home has a factored base year value (FBYV) of \$300,000 and a fair market value of \$1,500,000. The excluded amount under Proposition 19 is $\$300,000 + \$1,000,000 = \$1,300,000$. The difference, $\$1,500,000 - \$1,300,000 = \$200,000$. Thus, the adjusted base year value is \$500,000 (FBYV $\$300,000 +$ difference of $\$200,000$).

If a parent died prior to the February 16, 2021 operative date and the Assessor does not become aware of the death until a year later and reassesses the property as of the date of death, are the parent-child exclusion provisions applied under Proposition 58 or Proposition 19?

The date of death is the date of change in ownership. The law in effect as of the date of death will apply. Proposition 19 is clear that Proposition 58 applies to transfers that occur on or before February 15, 2021, and Proposition 19 applies to transfers that occur on or after February 16, 2021.

How is a property held in a trust affected by Proposition 19?

The administration of a trust is governed by the trust instrument itself. For properties held in trusts, Revenue and Taxation Code section 61(h) provides that a change in ownership occurs when any interests in real property vest in persons other than the trustor or the trustor's spouse or registered domestic partner when a revocable trust becomes irrevocable (also see Property Tax Rule 462.260). This typically occurs upon the death of the trustor. Thus, the date of death is considered to be the date of change in ownership. Proposition 19 is clear that Proposition 58 applies to transfers that occur on or before February 15, 2021, and Proposition 19 applies to transfers that occur on or after February 16, 2021.

I still have questions on Proposition 19. Who do I contact to discuss?

If you have further questions, you may call the Board of Equalization's Property Tax Department, County-Assessed Properties Division at 1-916-274-3350 or by e-mail, PTWebRequests@boe.ca.gov.

DISCLAIMER: *The information presented is intended to provide general and summary information about Proposition 19. It is not intended to be a legal interpretation or official guidance or relied upon for any purpose. If there is a conflict between the information presented and the text of the proposition or its implementation, the text of the proposition or legal interpretation will prevail. It is highly encouraged that you consult an attorney for advice specific to your situation. Revised 02.23.2021*

Please continue to visit the California State Board of Equalization (BOE) website for updates, as additional legislation will provide further clarification.

<https://www.boe.ca.gov/prop19/#Introduction>