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No. 2020/061

TO COUNTY ASSESSORS:

PROPOSITION 19
NOVEMBER 3, 2020 GENERAL ELECTION

On November 3, 2020, California voters approved Proposition 19. Proposition 19 (Assembly Constitutional Amendment 11, Stats. 2020, res. ch. 31) adds sections 2.1, 2.2, and 2.3 to article XIII A of the California Constitution. This Letter To Assessors (LTA) is a brief summary of the changes made by section 2.1, which adds new provisions for a base year value transfer of a primary residence for persons at least age 55 or severely disabled or for victims of wildfires or natural disasters. In addition, section 2.1 changes provisions of the parent-child and grandparent-grandchild exclusions.

Effective Date

Section 10 of article II of the California Constitution provides that a measure approved by a majority of votes cast takes effect on the fifth day after the Secretary of State files the Statement of the Vote for the election at which the measure is voted on, but the measure may provide that it becomes operative after its effective date.[1] The language of Proposition 19 for both the base year value transfer provisions and the parent-child and grandparent-grandchild exclusion provisions have specified operatives dates, as follows:

- The base year value transfer provisions become operative on April 1, 2021.
- The parent-child and grandparent-grandchild exclusion provisions become operative on February 16, 2021.

Base Year Value Transfer

Beginning on and after April 1, 2021, section 2.1(b) of article XIII A of the California Constitution provides that an owner of a primary residence who is over 55 years of age, severely disabled,[2] or a victim of a wildfire or natural disaster may transfer the base year value of their primary residence to a replacement primary residence located anywhere in California that is purchased or newly

[1] On June 5, 2018, the voters of California approved Proposition 71, which changed the effective date of ballot measures from the day after the election to five days after the California Secretary of State certifies the results of the election. See LTA No. 2018/068.
[2] Revenue and Taxation Code (RTC) section 74.3(b) defines a "severely and permanently disabled person" as "any person who has a physical disability or impairment, whether from birth or by reason of accident or disease, that results in a functional limitation as to employment or substantially limits one or more major life activities of that person, and that has been diagnosed as permanently affecting the person's ability to function, including, but not limited to, any disability or impairment that affects sight, speech, hearing, or the use of any limbs."

constructed as that person's principal residence within two years of the sale of the original primary residence, regardless of the value of the replacement residence.

If the replacement residence is of *equal or lesser value* than the original primary residence, the taxable value of the original primary residence may be transferred to the replacement residence. "Taxable value" is defined in section 2.1(e)(10) as the base year value determined in accordance with section 2(a) of the California Constitution, plus any adjustment authorized by section 2(b). Section 2(a) provides that real property is reassessed when purchased, newly constructed, or a change in ownership has occurred. Section 2(b) authorizes annual inflationary adjustments.[3] Thus, "taxable value" means the factored base year value.

If the replacement residence is of *greater value* than the original primary residence, partial relief is available. The new base year value of the replacement residence is the sum of the factored base year value of the original primary residence plus the difference between the full cash values of the original primary residence and the replacement residence.

> ***Example:*** Homeowner, who is over age 55, sells a primary residence on June 28, 2021 for a full cash value of $700,000. At the time of sale, the single-family residence has a factored base year value of $225,738. On July 22, 2021, a replacement primary residence is purchased for a full cash value of $800,000.
>
> Since the full cash value of the replacement primary residence exceeds the full cash value of the original primary residence, the difference in full cash values must be calculated and added to the transferred factored base year value.
>
> - $800,000 - $700,000 = $100,000 (difference in full cash values)
> - $225,738 + $100,000 = $325,738 (add difference to factored base year value)
> - New base year value of replacement primary residence is $325,738.

Please note that Proposition 19 is unclear whether one event (either the sale of the original residence or the purchase or new construction of the replacement residence) or both events must occur on or after April 1, 2021, in order to qualify for this base year value transfer.

Superseded – See LTA 2022/009, p. 2 (third bullet)

For purposes of this base year value transfer:

- A "primary residence" is a residence that is eligible for either the homeowner's or disabled veteran's exemption.
- A "victim of a wildfire or natural disaster" is an owner of a primary residence that has been substantially damaged as a result of a wildfire or natural disaster that amounts to more than 50 percent of the improvement value of the primary residence immediately before the wildfire or natural disaster. "Damage" includes a diminution in the value of the primary residence as a result of restricted access caused by the wildfire or natural disaster.

Superseded – See LTA 2022/009, p. 7

[3] These provisions are implemented by RTC section 51.

- A "natural disaster" is a condition of disaster or peril, as declared by the Governor, caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.
- A "wildfire" means an unplanned, unwanted wildland fire, including unauthorized human-caused fires, escaped wildland fire use events, escaped prescribed fire projects, and all other wildland fires where the objective is to extinguish the fire.[4]

Under Proposition 19, a person who is over 55 years of age or severely disabled may transfer the base year value of a primary residence three times. However, the language in Proposition 19 is not clear as to whether the "three times" would include a previously transferred base year value or if the "three times" would be in addition to this.

Superseded – See LTA 2022/009, p. 2.

As section 2.1(b)(1) states that these provisions are subject to "applicable procedures and definitions as provided by statute," we anticipate that the Legislature will clarify these procedures and definitions through future legislation.

Parent-Child and Grandparent-Grandchild Exclusion

Beginning on and after February 16, 2021, section 2.1(c) of article XIII A of the California Constitution provides that the terms "purchased" and "change in ownership" do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, if the property continues as the family home of the transferee. Partial relief is available if the value of the family home exceeds a specified value test.

These provisions also apply to a purchase or transfer of a family home between grandparents and their grandchildren, as long as 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.

See LTA 2022/012, p. 4-5, for stepparent exception

Family Home. Section 2.1(e)(3) provides that a "family home" means a principal residence that must be eligible for the homeowner's or disabled veteran's exemption. Section 2.1(c)(1) allows the purchase or transfer of a "family home of the transferor" to be excluded from reassessment, if the property "continues as the family home of the transferee." Thus, the family home must be the principal residence of both the transferor and the transferee.

Superseded – See Legal Memo dated 1/8/21, p. 10-11

A "family home" also includes a family farm that contains a principal residence.[5] A "family farm" is real property that is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity. "Agricultural commodity" means any and all plant and animal products produced for commercial purposes, including, but not limited to, plant products used for producing biofuels and cultivated industrial hemp.[6]

Value Test. Section 2.1(c)(1)(A) and (B) require adjustment of the taxable value if the assessed value of the family home exceeds the sum of the taxable value plus $1,000,000. "Assessed value"

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[4] Government Code section 51177(j).
[5] California Constitution, article XIII A, section 2.1(c)(3) and (e)(2).
[6] Government Code section 51201(a) and Division 24 (commencing with section 81000) of the Food and Agricultural Code.

is defined in RTC section 135 as 100 percent of full value. "Full value" is defined in section 110.5 as fair market value. "Taxable value" means the base year value plus inflationary factoring (i.e., factored base year value).

If the fair market value of the family home is *less than* the sum of the factored base year value plus $1,000,000, then the factored base year value need not be adjusted.

If the fair market value of the family home is *equal to or more than* the sum of the factored base year value plus $1 million, an amount equal to the fair market value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the factored base year value plus $1,000,000, is added to the factored base year value.

> ***Example:*** A single family residence has a factored base year value of $425,738. Parent dies on March 1, 2021, and property is inherited by parent's only child. The residence was the principal residence of both parent and child. On parent's date of death, property has a fair market value of $1,750,000.

- Calculate the sum of factored base year value plus $1,000,000.

  $425,738 + $1,000,000 = $1,425,738

- Determine whether the assessed value exceeds the sum of the factored base year value plus $1,000,000.

  $1,750,000 is greater than $1,425,738

- Calculate the difference.

  $1,750,000 - $1,425,738 = $324,262

- Add difference to factored base year value,

  $425,738 + $324,262 = $750,000

- New combined base year value = $750,000

Please be aware that beginning February 16, 2023, and every other February 16 after that, the $1,000,000 will be adjusted by the percentage change in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency. The State Board of Equalization will release this information biennially via Letter To Assessors. See LTA 2023/012

Filing Requirements. In order to receive this property tax benefit, the transferee must claim the homeowner's or disabled veteran's exemption at the time of the purchase or transfer of the family home. If the claim is not filed at the time of the purchase or transfer, the transferee has *one year* from the date of purchase or transfer to file the claim for the homeowner's or disabled veteran's exemption and shall be entitled to a refund of taxes previously owed or paid between the date of the transfer and the date the transferee claimed the homeowner's or disabled veteran's exemption.

Propositions 58/193 Sunset Date. Effective November 5, 1986, Proposition 58 added subdivision (h) to section 2 of article XIII A to exclude transfers of real property between parents and their children. On March 27, 1996, Proposition 193 amended section 2(h) to extend this exclusion to transfers from grandparents to grandchildren, under limited circumstances. These provisions are implemented by RTC section 63.1.

This exclusion applies to two types of property:

- Principal residence (no value limit)
- The first $1 million of all other real property

Each person can transfer up to $1 million of real property (other than a principal residence) to any combination of parents or children. The $1 million limit is cumulative over a lifetime. The value that counts towards the $1 million limit is a property's factored base year value, not its current market value.

Proposition 19 specifically provides in section 2.1(d):

> Subdivision (h) of Section 2 shall apply to any purchase or transfer that occurs on or before February 15, 2021, but shall not apply to any purchase or transfer occurring after that date. Subdivision (h) of Section 2 shall be inoperative as of February 16, 2021.

Thus, the provisions of RTC section 63.1 (Propositions 58/193) will apply to any transfers occurring on or before February 15, 2021.

Proposition 19 will apply to any transfers that occur on or after February 16, 2021. Proposition 19 limits the parent-child and grandparent-grandchild exclusion to a family home or farm that is the principal residence of both the transferor and transferee, and eliminates the exclusion for any other type of property.

A family farm may, but does not need to be or, contain a principal residence. See LTA 2022/012, p. 3.

Conclusion

At this time, there are still many uncertainties surrounding the implementation of Proposition 19, as the language does not address all issues. These issues will need to be resolved through future legislation. Once this implementing legislation has been enacted, we will issue future guidance on the matter. Until that time, we recommend that County Assessors track possible qualifying transfers, since it is likely that the implementing legislation will be retroactive to the applicable operative dates.

A copy of section 2.1 is enclosed. If you have any questions regarding the change in ownership provisions of Proposition 19, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

DY:gs
Enclosure

California Constitution
Article XIII A
Section 2.1

(a) Limitation on Property Tax Increases on Primary Residences for Seniors, the Severely Disabled, Wildfire and Natural Disaster Victims, and Families. It is the intent of the Legislature in proposing, and the people in adopting, this section to do both of the following:

(1) Limit property tax increases on primary residences by removing unfair location restrictions on homeowners who are severely disabled, victims of wildfires or other natural disasters, or seniors over 55 years of age that need to move closer to family or medical care, downsize, find a home that better fits their needs, or replace a damaged home and limit damage from wildfires on homes through dedicated funding for fire protection and emergency response.

(2) Limit property tax increases on family homes used as a primary residence by protecting the right of parents and grandparents to pass on their family home to their children and grandchildren for continued use as a primary residence, while eliminating unfair tax loopholes used by East Coast investors, celebrities, wealthy non-California residents, and trust fund heirs to avoid paying a fair share of property taxes on vacation homes, income properties, and beachfront rentals they own in California.

(b) Property Tax Fairness for Seniors, the Severely Disabled, and Victims of Wildfire and Natural Disasters. Notwithstanding any other provision of this Constitution or any other law, beginning on and after April 1, 2021, the following shall apply:

(1) Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence.

(2) For purposes of this subdivision:

(A) For any transfer of taxable value to a replacement primary residence of equal or lesser value than the original primary residence, the taxable value of the replacement primary residence shall be deemed to be the taxable value of the original primary residence.

(B) For any transfer of taxable value to a replacement primary residence of greater value than the original primary residence, the taxable value of the replacement primary residence shall be calculated by adding the difference between the full cash value of the original primary residence and the full cash value of the replacement primary residence to the taxable value of the original primary residence.

(3) An owner of a primary residence who is over 55 years of age or severely disabled shall not be allowed to transfer the taxable value of a primary residence more than three times pursuant to this subdivision.

(4) Any person who seeks to transfer the taxable value of their primary residence pursuant to this subdivision shall file an application with the assessor of the county in which the replacement primary residence is located. The application shall, at minimum, include information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code, as that section read on January 1, 2020.

(c) Property Tax Fairness for Family Homes. Notwithstanding any other provision of this Constitution or any other law, beginning on and after February 16, 2021, the following shall apply:

(1) For purposes of subdivision (a) of Section 2, the terms "purchased" and "change in ownership" do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, as defined by the Legislature, if the property continues as the family home of the transferee. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. The new taxable value of the family home of the transferee shall be the sum of both of the following:

(A) The taxable value of the family home, subject to adjustment as authorized by subdivision (b) of Section 2, determined as of the date immediately prior to the date of the purchase by, or transfer to, the transferee.

(B) The applicable of the following amounts:

(i) If the assessed value of the family home upon purchase by, or transfer to, the transferee is less than the sum of the taxable value described in subparagraph (A) plus one million dollars ($1,000,000), then zero dollars ($0).

(ii) If the assessed value of the family home upon purchase by, or transfer to, the transferee is equal to or more than the sum of the taxable value described in subparagraph (A) plus one million dollars ($1,000,000), an amount equal to the assessed value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the taxable value described in subparagraph (A) and one million dollars ($1,000,000).

(2) Paragraph (1) shall also apply to a purchase or transfer of the family home between grandparents and their 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.

(3) Paragraphs (1) and (2) shall also apply to the purchase or transfer of a family farm. For purposes of this paragraph, any reference to a "family home" in paragraph (1) or (2) shall be deemed to instead refer to a "family farm."

(4) Beginning on February 16, 2023, and every other February 16 thereafter, the State Board of Equalization shall adjust the one million dollar ($1,000,000) amount described in paragraph (1) for inflation to reflect the percentage change in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency. The State Board of Equalization shall calculate and publish the adjustments required by this paragraph.

(5) (A) Subject to subparagraph (B), in order to receive the property tax benefit provided by this section for the purchase or transfer of a family home, the transferee shall claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home.

(B) A transferee who fails to claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home may receive the property tax benefit provided by this section by claiming the homeowner's exemption or disabled veteran's exemption within one year of the purchase or transfer of the family home and shall be entitled to a refund of taxes previously owed or paid between the date of the transfer and the date the transferee claims the homeowner's exemption or disabled veteran's exemption.

(d) Subdivision (h) of Section 2 shall apply to any purchase or transfer that occurs on or before February 15, 2021, but shall not apply to any purchase or transfer occurring after that date. Subdivision (h) of Section 2 shall be inoperative as of February 16, 2021.

(e) For purposes of this section:

(1) "Disabled veteran's exemption" means the exemption authorized by subdivision (a) of Section 4 of Article XIII.

(2) "Family farm" means any real property which is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is defined in Section 51201 of the Government Code as that section read on January 1, 2020.

(3) "Family home" has the same meaning as "principal residence," as that term is used in subdivision (k) of Section 3 of Article XIII.

(4) "Full cash value" has the same meaning as defined in subdivision (a) of Section 2.

(5) "Homeowner's exemption" means the exemption provided by subdivision (k) of Section 3 of Article XIII.

(6) "Natural disaster" means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(7) "Primary residence" means a residence eligible for either of the following:

(A) The homeowner's exemption.

(B) The disabled veteran's exemption.

(8) "Principal residence" as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

(9) "Replacement primary residence" has the same meaning as "replacement dwelling," as that term is defined in subdivision (a) of Section 2.

(10) "Taxable value" means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

(11) "Victim of a wildfire or natural disaster" means the owner of a primary residence that has been substantially damaged as a result of a wildfire or natural disaster that amounts to more than 50 percent of the improvement value of the primary residence immediately before the wildfire or natural disaster. For purposes of this paragraph, "damage" includes a diminution in the value of the primary residence as a result of restricted access caused by the wildfire or natural disaster.

(12) "Wildfire" has the same meaning as defined in subdivision (j) of Section 51177 of the Government Code, as that section read on January 1, 2020.