



Legislative Bill Analysis

SCA 4 (Seyarto)
Date: March 6, 2023 (Introduced)
Program: Property Taxes
Section 2.1 of Article XIII A of the California Constitution
Effective: Immediately

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Summary:

Senate Constitutional Amendment 4 proposes to amend section 2.1 of article XIII A of the California Constitution to repeal the intergenerational transfer exclusion and re-instate the former parent-child and grandparent-grandchild exclusion that existed prior to February 16, 2021.

Fiscal Impact Summary:

The fiscal impact of the intergenerational transfer exclusion is indeterminable.

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.¹ Base year values are annually adjusted for inflation, not to exceed 2 percent (called the "factored base year value"). Exceptions to this reassessment requirement have been enacted.

On November 3, 2020, California voters approved Proposition 19, which, in part, added section 2.1 to article XIII A of the California Constitution. Operative February 16, 2021, section 2.1(c) and (d) 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 farm or a family home as long as the property continues as the family home of the transferee. These provisions are implemented by Revenue and Taxation Code (RTC) section 63.2 and Property Tax Rule 462.520.

Family Farm. A "family farm" means any real property that is under cultivation, being used for pasture or grazing, or to produce any agricultural commodity, which is defined as any and all plant and animal products produced in California for commercial purposes.²

Family Home. To qualify as a family home, (1) the home must be the principal residence of the transferor, (2) the transferee must occupy the home as the principal residence within one year of the date of transfer or change in ownership, and (3) the transferee must file for the homeowners' or disabled veterans' exemption. Moreover, the family home must continue to be the transferee's principal residence in order for the exclusion

¹ Article XIII A, section [2](#).

² 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).



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to apply. Once the property no longer qualifies for the homeowners' or disabled veterans' exemption, the exclusion will be removed as of the ensuing lien date.

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

Adjustment of \$1 Million Amount. Beginning February 16, 2023, the \$1 million amount will be biennially adjusted by the percentage change in the House Price Index (HPI) for California for the prior calendar year, as determined by the Federal Housing Finance Agency. This bill requires the State Board of Equalization (BOE) to calculate and publish the adjustments required. The BOE calculated this adjustment, and for transfers that occur between February 16, 2023, and February 15, 2025, the \$1 million amount is \$1,022,600.³

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.

Proposed Law:

Intergenerational Transfer Exclusion. This bill adds a sunset date of December 31, 2024, to section 2.1(c), thereby eliminating the Proposition 19 intergenerational transfer exclusion.

Parent-Child and Grandparent-Grandchild Exclusion. This bill, as of January 1, 2025, reinstates the parent-child and grandparent-grandchild exclusions contained in article XIII A, section 2(h).

Background:

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* do not include 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 value of all real property transferred (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. RTC section 63.1 implements the parent-child exclusion. The parent-child exclusion applies to changes in ownership that occur on or after November 5, 1986.

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³ See Letter To Assessors No. [2023/012](#).

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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.

Statewide Tracking Database. To monitor and enforce the \$1 million limit statewide for transfers of "other property", the BOE maintains and tracks the \$1 million limit of transferors who transfer "other property" that receives the parent-child or grandparent-grandchild exclusion information via a database. County Assessors report information from approved claims⁴ to the BOE, and the transferors' names and pertinent information are entered into the BOE database. When a transferor cumulatively transfers more than \$1 million of adjusted base year value, a report is sent to the County Assessors to take action (i.e., verify the information and, if necessary, reassess).

Intergenerational Transfer Exclusion. Proposition 19, approved by the voters on November 3, 2020, in part, added section 2.1 to article XIII A of the California Constitution, and provided the following intergenerational transfer exclusion:

- 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 for a transfer of a family farm or family home between parents and their children or grandparents and their grandchildren, if the family home continues as the family home of the transferee, and requires the family home or family farm to meet a specified value test.
- Section 2.1(d) specifically provides that subdivision (h) of section 2 applies to transfers that occur on or before February 15, 2021, and became inoperative as of February 16, 2021.

In General:

Property Tax System. In 1978, voters approved [Proposition 13](#), which added article XIII A to the California Constitution. Under this system, property is valued at its 1975 fair market value, with annual increases thereafter limited to the amount of inflation or 2 percent, whichever is less, until the property changes ownership or new construction occurs. Once a reassessable event occurs (i.e., a change in ownership or new construction), the value of the property for tax purposes is redetermined based on its current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Because real estate values generally appreciate at a rate greater than 2 percent per year, when an event occurs triggering a reassessment of property to its current market value, the reassessed value (i.e., its new base year value) will likely be substantially higher.

California property tax law provides for various situations where the base year value of a property is either: (1) retained, notwithstanding that new construction has taken place or that the property has changed ownership, or (2) transferred to another property, notwithstanding that the property has changed ownership. These special situations are provided pursuant to various constitutional amendments modifying the original Proposition 13 framework and serve to avoid the otherwise required reassessment of a property to its current market value.

⁴ RTC section 63.1(f).

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Commentary:

1. **No Effect on Proposition 19 Base Year Value Transfer.** The other type of property tax relief added by Proposition 19 is an expanded base year value transfer for persons over age 55, severely disabled, or victims of wildfire or other natural disasters. This bill does not affect this base-year value transfer.
2. **Not Retroactive.** This bill provides that the Proposition 19 intergenerational exclusion will be effective from February 16, 2021, through December 31, 2024, and the former parent-child and grandparent-grandchild exclusion will be re-instated as of January 1, 2025. Thus, a transfer of a family home or family farm between parents and their children or, under limited circumstances, between grandparents and their grandchildren that occurs between February 16, 2021, and December 31, 2024, will be subject to the limitations of the intergenerational transfer exclusion of Proposition 19.
3. **Biennial Adjustment of the \$1 Million Amount.** Will the BOE be required to make the biennial adjustment of the \$1 million amount in 2025 if this bill is enacted by the voters and section 2.1(c) sunsets?
4. **No Companion Measure.** If approved by the voters, will the applicable operative dates be added to sections 63.1 and 63.2?

Costs:

The BOE would incur costs of approximately \$269,000 in 2024-25, \$299,000 in 2025-26, and an average fiscal year cost of \$156,000 for the three years thereafter.

Revenue Impact:

Estimating the revenue impact of SCA 4 is somewhat difficult. Pursuant to Proposition 19 requirements and guidelines, counties report to BOE the number of claims filed, claims granted, and claims denied. For roll year 2021-22, counties reported over six thousand Proposition 19 intergenerational transfer exclusion filings. Information reported by counties does not include the following data points, which are critical for any revenue impact analysis:

- The values of the properties transferred;
- How often a transferred home subsequently became the transferees' principal residence;
- The consequences of the property no longer being used as the transferees' principal residence; and,
- How many properties will now qualify for the exemptions as "other real property".

At this time, based on these unknown factors, the revenue loss is indeterminable.