



FAQs - Intergenerational Transfers under Proposition 19

February 17, 2021

Why did C.A.R. sponsor Proposition 19?

Seniors often live in homes that no longer fit their needs and feel trapped because their homes may be too large or too far away from their families or healthcare facilities. Instead of downsizing and moving closer to their grandchildren or healthcare facilities, they must either remain in their home or face substantial property tax increases that could see them paying double or even triple their existing property tax bill.

Additionally, severely disabled people may live in homes that are no longer safe or practical. Buying a more suitable home is often impossible because they face significant property tax increases if they move, even if they move to a less expensive home.

Proposition 19 provides greater flexibility for older homeowners, the severely disabled and those impacted by natural disasters who wish to move to a more suitable property by allowing them to transfer the property tax base of their existing home to a new home anywhere in California, regardless of location or price (with an adjustment upward to their tax basis if the replacement property is of greater value).

How does Prop 19 affect intergenerational transfers?

Proposition 19 continues to safeguard family transfers as a right in the California State Constitution and allows children and grandchildren to receive the property tax break if the heir resides in the family home. As discussed in questions 3, 4 and 5, there is a \$1 million cap on the value of the exclusion but covers the vast majority of homes transferred and, thus, those heirs will not see an increase in the property tax bill that was paid by their parent/grandparent.

However, non-owner occupied property is now subject to reassessment upon transfer.

What are the new rules on intergenerational family transfers and family farms under Prop 19?

Proposition 19 changes the rules on exemptions from reassessment for intergenerational transfers by limiting the exemption to the transfer of a primary residence to a child (or the grandchild if the parents are deceased) only when the property continues to be used as a family home by the child (or grandchild if the parents are deceased), and even then, if the difference between the taxable value and the actual value is too great, a partial increase in the new taxable value will be imposed. As is the case under current law, under Prop 19, a grandparent- to-grandchild transfer receives the exemption only if the parents are deceased. Proposition 19 also includes provisions that would allow the transfer of a family farm to retain its taxable value. These new rules apply to any purchase or transfer beginning February 16, 2021.

If I pass my principal residence on to my children or if the parents are deceased, the grandchildren, will the property be reassessed?

So long as the property continues to be used as a family home (primary residence), and the transferee claims the homeowner exemption, the property tax basis will remain the same, subject to some upward adjustments if the property value, at the time of transfer, is more than \$1M over the original tax basis (and subject to normal year to year assessments which under Proposition 13 cannot increase by more than 2% per year).

If the property is transferred to a child or grandchild and used as a Family Home, what will the new tax basis be if at the time of transfer the property value is less than \$1M over the original tax basis?

The new tax basis will remain the same as the original tax basis. For example, if the original tax basis was \$500,000, and at the time of transfer the property is valued at \$1.2 M, then the tax basis will remain at \$500,000. This is because \$1.2M is not more than \$1M over the original taxable basis.

If the property is transferred to a child or grandchild and used as a family home, what will the new tax basis be if the at the time of transfer the property value is more than \$1M over the original tax basis?

If the property at the time of transfer is more than \$1M over the original tax basis, then the new tax basis will be the value of the property at the time of transfer minus \$1M. For example, if the original tax basis was \$500,000, and at the time of transfer the property is valued at \$2M, then the new taxable value will be \$1,000,000 (\$2M minus \$1M). This formula applies because the value of the property at time of transfer was more than \$1M over the taxable basis.

Are family farms included in Proposition 19?

Yes, family farms have the same exemptions as family homes (principal residences). “Family farm” means any real property under cultivation or which is being used for pasture, or grazing, or that is used to produce any agricultural commodity. It does not require the transferee to live in the property as a principal residence. A family farm, however, is not required to be used as a principal residence in order to receive the exemption.

When do these family transfer rules take effect?

The family transfer rules take effect February 16, 2021. The transferee would have to claim the homeowner’s or disabled veteran’s exemption within one year of the transfer to obtain the benefit of the family transfer tax exemption.

Intergenerational transfers previously exempted not only the transfer of the tax basis of a primary residence but also up to \$1 million dollars of all other real property. Is that exemption still available under Prop 19?

No. Prop 19 allows the intergenerational transfer exemption only for the primary residence and only if it continues to be used as a primary residence.

Will this initiative raise my taxes?

No. The initiative will limit property tax increases for seniors, people with severe disabilities and wildfire or natural disaster victims. It will also limit property tax increases on the family home used as a primary residence, keeping family homes affordable.

Was the intergenerational transfer at risk of being abolished?

Yes, and any such abolition would have been purely for the sake of revenue with no benefit for housing or homeowners.

The media and state legislators had already targeted family transfers as “low-hanging fruit” for significant reform or complete elimination to generate billions in annual revenue for schools, state, and local government. Without Prop 19 , the elimination of all intergenerational transfers was at stake.

The [LAO issued a report in 2017](#), which found that California is losing \$1.5 billion a year in property tax revenue due to intergenerational transfer laws. It was only a matter of time before an attempt was made to recapture some of that lost revenue and, in fact, one senator introduced a bill to do just that. It was better for C.A.R. to use the revenue to offset the costs associated with the expansion of portability.

Media stories highlighting this tax loophole include:

- LA Times: [“California homeowners get to pass low property taxes to their kids. It’s proved highly profitable to an elite group”](#)
- AP News: [“California Bill Targets Tax Breaks for Wealthy Homeowners”](#)
- Curbed: [“Bay Area Mayors Want to End Tax Breaks on Second Homes”](#)
- SF Chronicle: [“Tax Shelter Saves Children Big Bucks on Inherited Property”](#)

With the urgent need for revenue by state and local budget governments, removal of intergenerational transfer tax rules was imminent – which is why it was so important to preserve and protect this right under the initiative.

Where can I find more specific information about tax portability and intergenerational transfers?

Legal FAQs on Tax Portability is available here:

<https://www.car.org/riskmanagement/qa/taxfolder/prop19>

The information contained herein is intended to provide general information and is not intended as a substitute for individual legal advice. Specific examples used are only general examples, and the actual amount of property taxes owed for any person will depend on the specific situation of the individual and a wide variety of other factors. Therefore, all persons are directed to seek the advice of an attorney regarding their specific tax and legal situation.