

Property Tax Planning from 13 to 19: *Navigating Clients Through a Shifting Landscape*

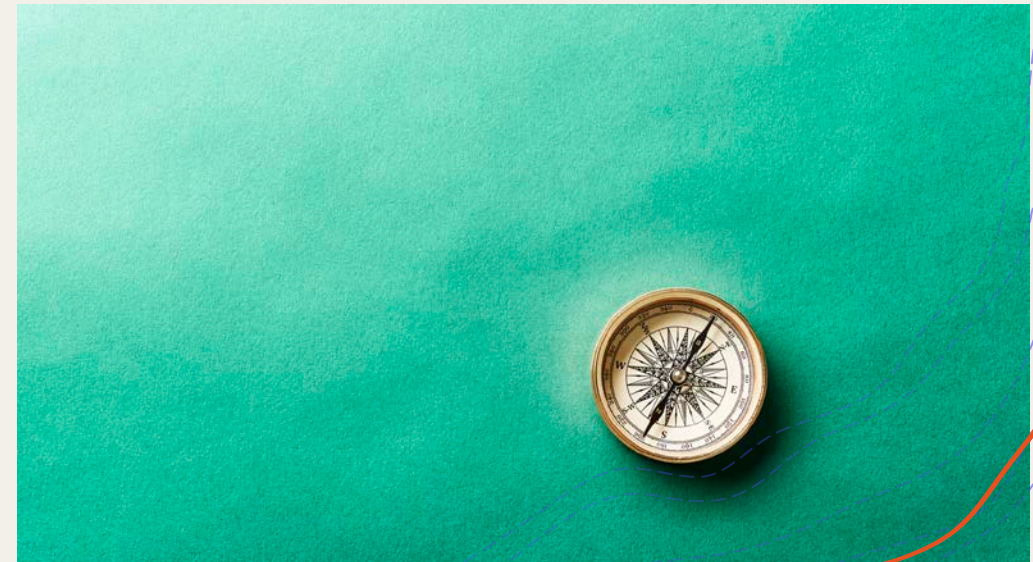
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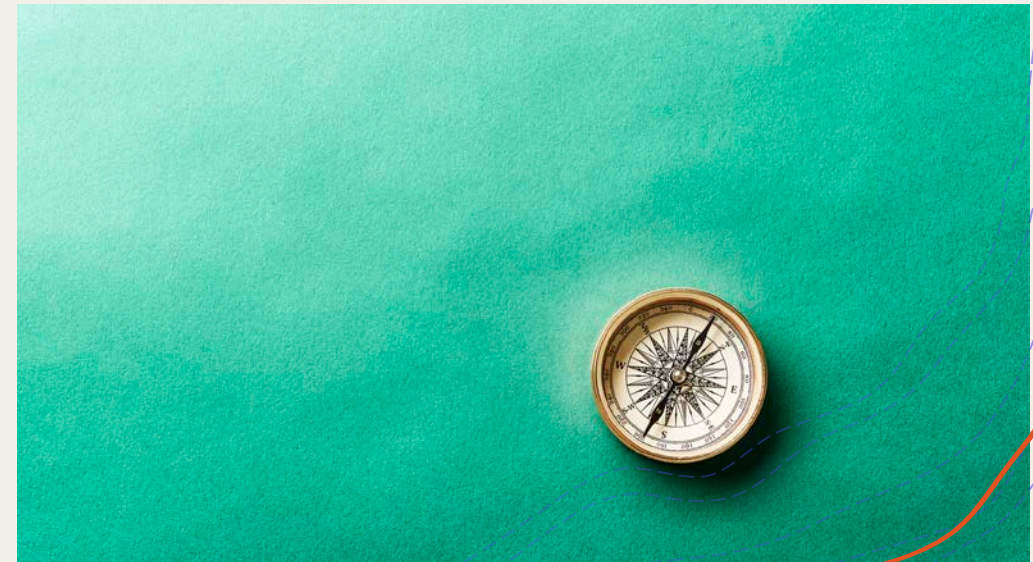
Goals

1. Overview the history and dynamics of CA ballot initiatives
2. Survey the terrain of property tax law under Prop 13, etc.
3. Identify the changes caused by Prop 19
4. Scan the horizon for possible future changes



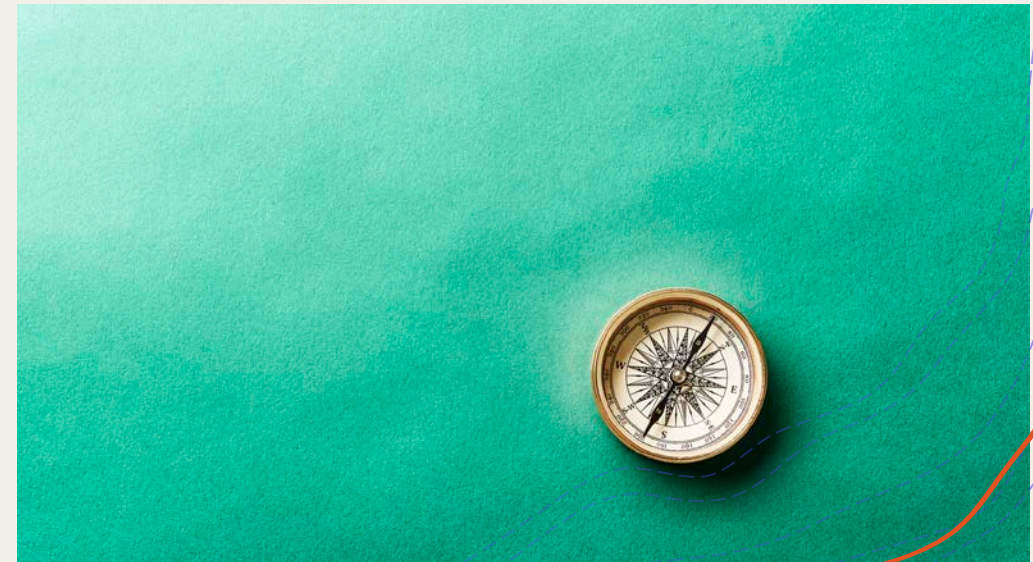
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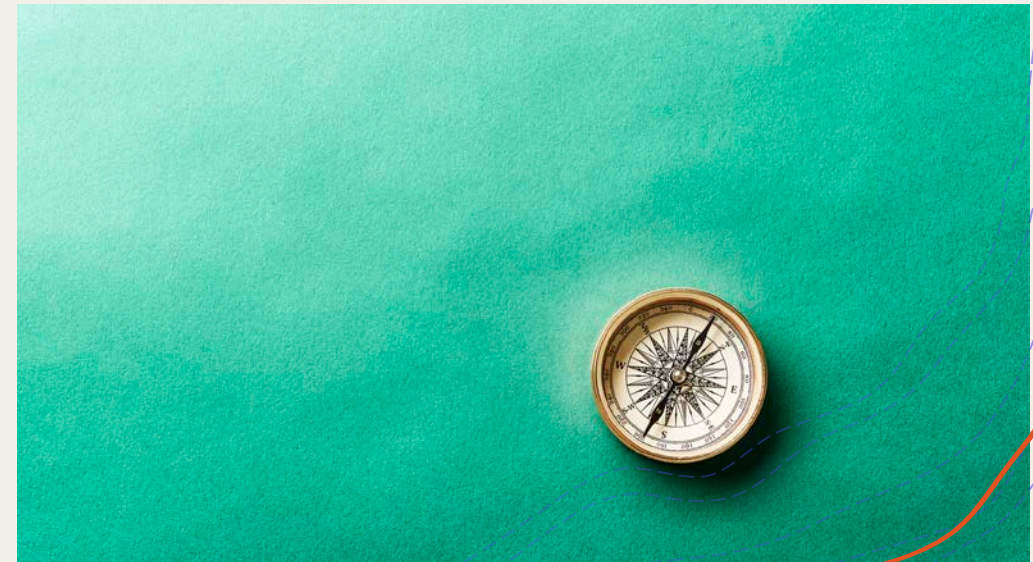
Agenda

- + Ballot Initiatives in CA
- + Proposition 13 Framework
- + Proposition 19
 - + Parent-Child Exclusion
 - + Base Year Value Transfers
- + Looking Forward



Agenda

- + ***Ballot Initiatives in CA***
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Ballot Initiatives in California

What is the ballot initiative process?

1. Write Proposed Initiative Measure

May be written by proponent, proponent's attorney or Legislative Counsel (if determine it is reasonably probable that the measure will be submitted to voters).

2. Request for Circulating Title & Summary

Submit request to Attorney General with **\$2,000 fee**. AG prepares official Title & Summary. CA Legislative Analyst's Office prepares fiscal report.

3. Format Petitions

Petition must conform to specific formatting requirements, including **disclosure of top funders**, etc.

4. Circulate Petitions/Gather Signatures

8% of total votes cast for office of Governor at last gubernatorial election (**997,139** through 2022)

5. Submit to County Election Officials

Must be completed within **180 days** of receipt by Secretary of State of Title & Summary from AG

6. Verification of signatures

Raw count reported by counties to SOS within **8 days**
Process must be completed **131 days** before election

- Statewide Initiative Guide, California Secretary of State, <<https://elections.cdn.sos.ca.gov/ballot-measures/pdf/statewide-initiative-guide.pdf>>

Ballot Initiatives in California

What makes ballot initiatives so significant in CA ?

- + There are two primary methods to amend the California Constitution:
 1. Ballot initiative supported by **8%** of votes cast in last gubernatorial election
 - + Once on the ballot, amendment passes with **>50% vote**
 - + One of the lowest thresholds in U.S. (Approx. 5 states have lower thresholds)
 2. Legislature may propose an amendment by **2/3 vote** in each of the Assembly and Senate
 - + Must then be approved by referendum with >50% vote
- + This represents a ***fundamental imbalance*** in the political process: i.e., it is much easier for initiative campaigns *pass* a constitutional amendment than the legislature and it is much harder for the legislature to “*undo*” a constitutional amendment after an initiative campaign is successful.
- + This imbalance was ***intended*** by the voters of the time
- + Cal. Const. Art. XVIII, Sec. 1-4

Ballot Initiatives in California

Why did California implement ballot initiatives?

+ “[T]he initiative power was added to the state Constitution in **1911** (Cal. Const., Art. II, §§ 8, 10) because of the view, widely held among California's voters, that the **Legislature** and state officials had become so dependent on **special interests** that they were unable or unwilling to take actions that the public interest required.”

+ ***Perry v. Brown***, 52 Cal. 4th 1116, 1168 (2011)

Ballot Initiatives in California

Why did California implement ballot initiatives?



- + Glen Gendzel, "The People versus the Octopus: California Progressives and the Origins of Direct Democracy", *Siècles* [Online], 37 | 2013, Online since 23 June 2014, connection on 09 March 2021. URL: <http://journals.openedition.org/siecles/1109>
- + Joshua Spivak, "The Octopus myth derailed / Historian finds that the Southern Pacific got a bad rap," *sfgate.com*, May 8, 2005, accessed on September 28, 2021

Ballot Initiatives in California

Have ballot initiatives tamed special interests?



Ballot Initiatives in California

Have ballot initiatives tamed special interests?

- + **Yes on Proposition 22** received **\$205.37 million**, the most that an initiative campaign had ever received in California (not adjusted for inflation).
- + Uber contributed **\$59.5 million**, DoorDash contributed **\$52.1 million**, Lyft provided **\$49.0 million**, InstaCart provided **\$31.6 million**, and Postmates provided **\$13.3 million**

+ "California Proposition 22, App-Based Drivers as Contractors and Labor Policies Initiative (2020)," **Ballotpedia.org**, September 26, 2021.

Ballot Initiatives in California

Have ballot initiatives tamed special interests?

- + Two **Yes on 19** PACs were organized to support Proposition 19. Together, the committees had raised \$47.57 million.



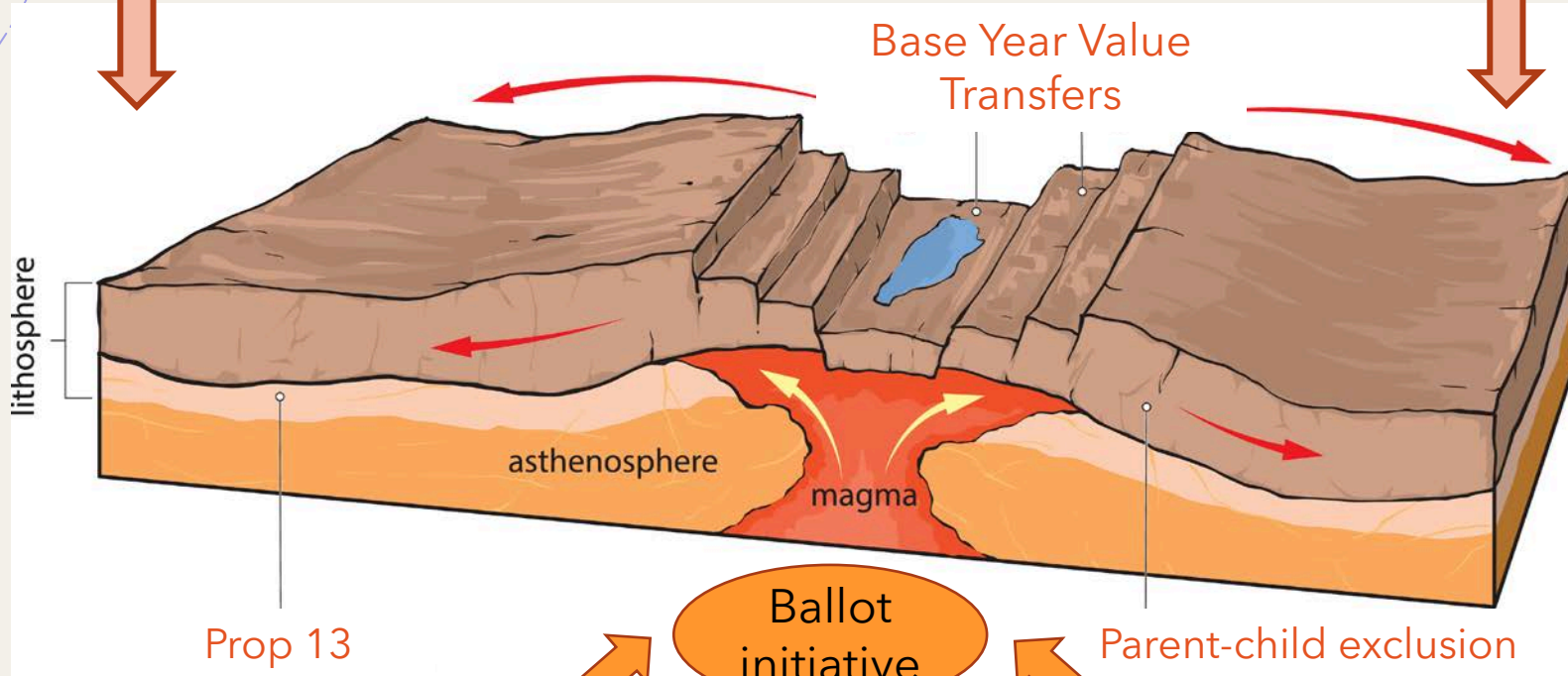
Donor	Cash Contributions	In-Kind Contributions	Total Contributions
California Association of Realtors Issues Mobilization PAC	\$40,400,341.00	\$0.00	\$40,400,341.00
National Association of Realtors	\$4,800,000.00	\$23,500.00	\$4,823,500.00

- + "California Proposition 19, Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment (2020)," Ballotpedia.org, September 26, 2021.

Ballot Initiatives in California

How do ballot initiatives impact property tax law?

Property Tax Landscape



Politics (revenue needs for schools, roads, polarization, neg. partisanship)

Economics (housing shortage, rising home values, inequality, etc.)

Ballot initiative

Parent-child exclusion

Homeowners' incentive to protect home value & minimize tax burden

Special interests (realtors, initiative industrial complex, big business, etc.)

California law (constitutional amendments, direct democracy)

Ballot Initiatives in California

How do ballot initiatives impact property tax law?

- + Selected property tax related ballot initiatives (1978-2020)
 - + **Proposition 13 (1978)**
 - + Proposition 58 – Parent-child exclusion (1986, legislatively referred)
 - + Proposition 60 – Base year value transfers: intracounty (1986, leg. ref.)
 - + Proposition 90 – Base year value transfers: limited intercounty (1988, leg. ref.)
 - + Proposition 110 – Base year value transfers: disaster victims (1990, leg. ref.)
 - + Proposition 193 – Grandparent-grandchild exclusion (1996, leg. ref.)
 - + Proposition 5 – Expand base year value transfers (2018, defeated)
 - + Proposition 15 – Tax commercial/industrial property at current value (2020, defeated)
 - + **Proposition 19 – Expand base year value transfers, restrict parent-child excl. (2020)**

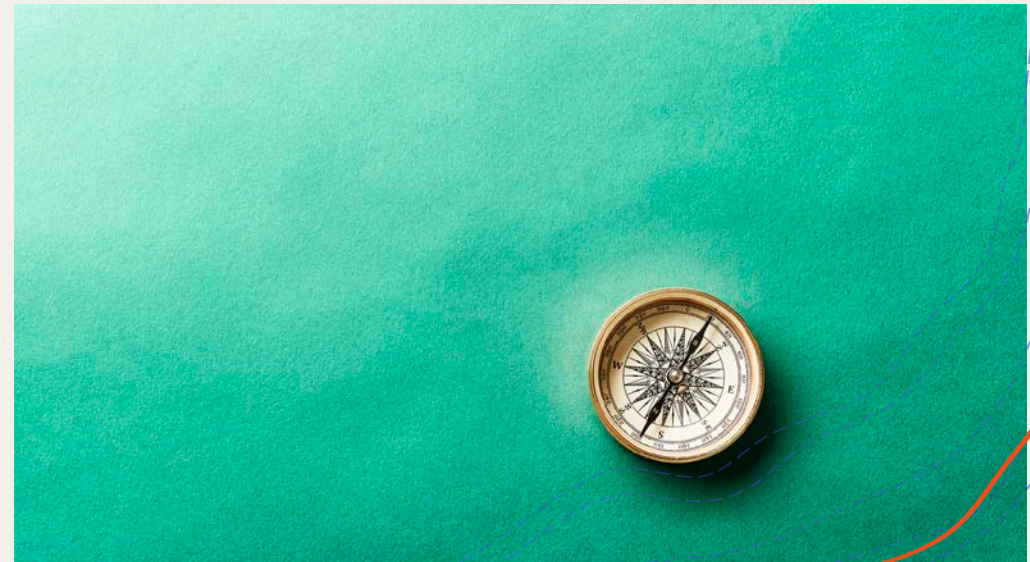
Ballot Initiatives in California

Where do estate planning professionals fit into this picture?



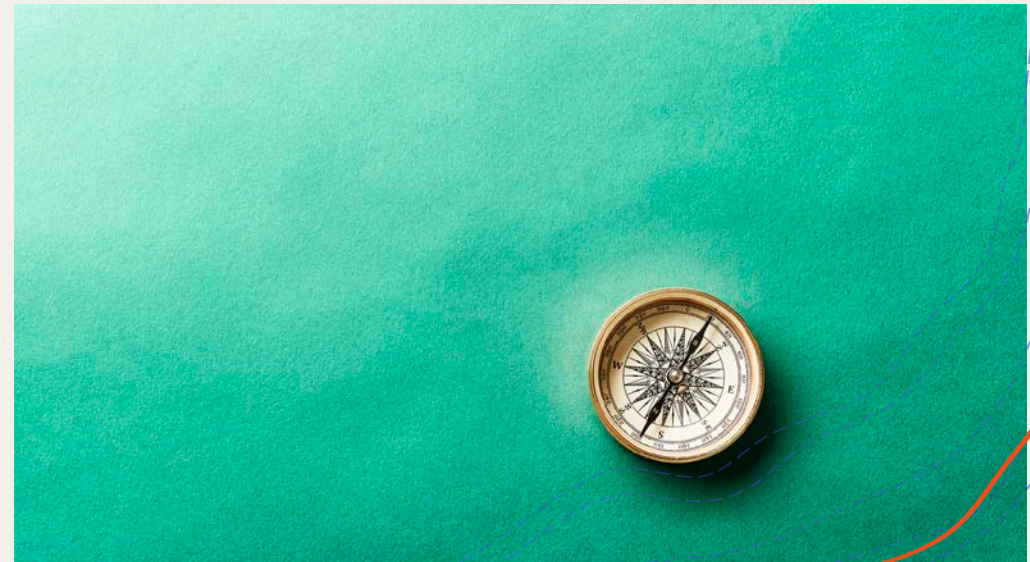
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- + ***Proposition 13 Framework***
- + Proposition 19
 - + Parent-Child Exclusion
 - + Base Year Value Transfers
- + Looking Forward



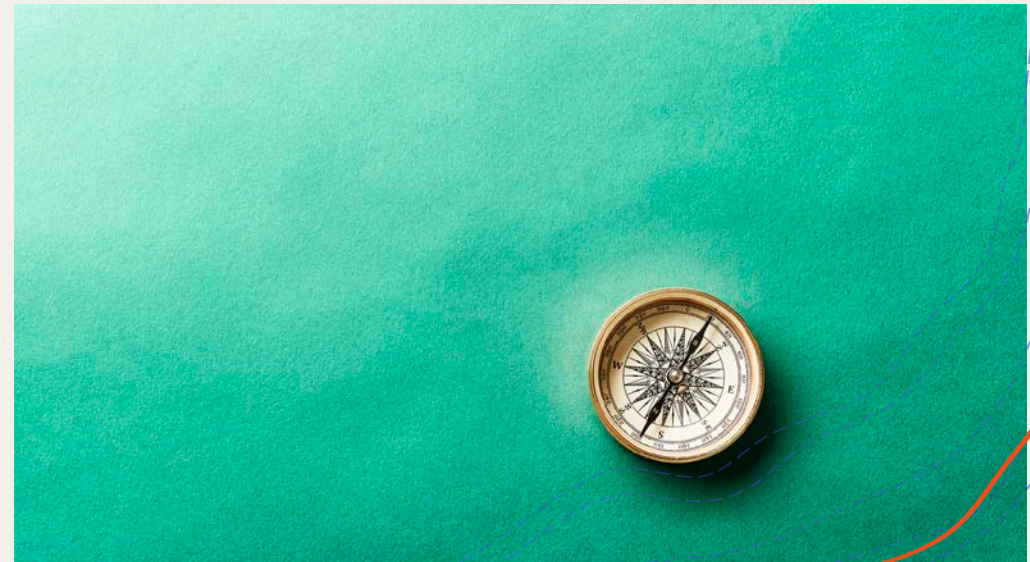
Proposition 13 Framework

- + In 1978, Proposition 13 fundamentally upended the California property tax system, replacing its “current value” system with an entirely new “acquisition value” framework that endures today



Proposition 13 Framework

- + **Background**
- + Legal Authority



Proposition 13 Framework

Background

- + Before 1978, real property was appraised periodically, i.e., at least once every 5 years
- + This kept assessed values at or near current market values

+ California Property Tax: An Overview, Publication 29 (12/2018)

Proposition 13 Framework

Background

- + Prop 13 passed on **June 6, 1978**, as a response to prior increases in property taxes and growing state revenue surplus

California Proposition 13		
Result	Votes	Percentage
Yes	4,280,689	64.79%
No	2,326,167	35.21%

- + California Proposition 13, Tax Limitations Initiative (June 1978), Ballotpedia, accessed 9/27/2021

Proposition 13 Framework

Background

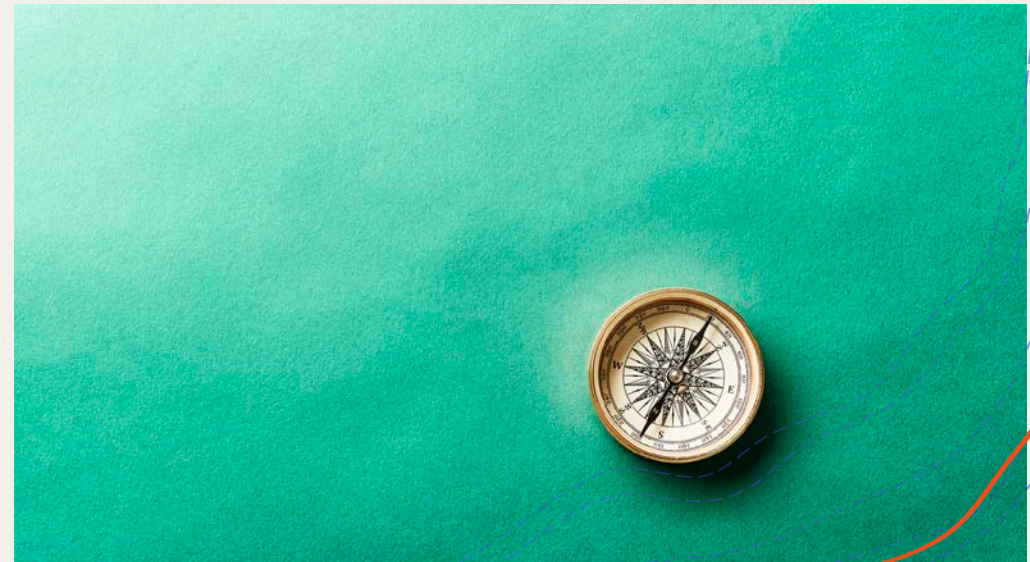
+ Impact

- + Rolled back real property assessments to 1975 market values
- + Limited property tax rate to 1% **plus** the rate necessary to fund local voter-approved bonds
- + Automatically adjusted taxable value of real property to increase based on official inflation statistics, **not to exceed 2% per year**
- + Reassessed real property ONLY in the event of (1) a "change in ownership" or (2) new construction

+ California Property Tax: An Overview, Publication 29 (12/2018)

Proposition 13 Framework

- + Background
- + ***Legal Authority***



Proposition 13 Framework

Legal Authority

- + Proposition 13
 - + Amendment to Cal. Const. Art. XIII A
- + Revenue & Taxation Code
 - + Added Part .05 Implementation of Article XIII A (RTC Sec. 50-100.96)

Regulatory Guidance

- + BOE
 - + Property Tax Rules
 - + Opinion letters
 - + Letters to Assessors

Proposition 13 Framework

Legal Authority

+ Definitions:

+ **Fair Market Value**: The amount of cash or its equivalent that property would bring if exposed for sale in the open market where there is equal bargaining power and full knowledge of property uses and restrictions

Proposition 13 Framework

Legal Authority

+ Definitions:

- + **Full Cash Value**: Occasionally given different meanings across, Cal. Const., RTC, etc.
 - + Under RTC Sec. 110, same meaning as “fair market value”
 - + **For purposes of Art. XIII A, Sec. 2, same meaning as base year value (RTC Sec. 110.1(a))
- + **Base Year Value**: The “fair market value” **as of** the 1975 lien date or the date of purchase, CIO or completion of construction (RTC Sec. 110.1(b))

Proposition 13 Framework

Legal Authority

+ Definitions:

+ **Taxable Value** (RTC Sec. 51(a)): Lesser of

- a. The **base year value** compounded annually since base year by an “**inflation factor**”—percentage change in cost of living under RTC 2122
- b. The **full cash value** (i.e. **fair market value**) as of the lien date, taking into account factors causing a **decline in value**

+ **Factored base year value**

- + In a “base year value *transfer*” it is actually the “taxable value” that is *transferred*

Proposition 13 Framework

Legal Authority

+Definitions:

- +**Lien Date**: January 1 preceding the fiscal year for which taxes are levied (January 1, 2021 for FY 2021-2022)
- +**Fiscal Year**: Begins July 1 and ends June 30

Proposition 13 Framework

Legal Authority

- + **RTC Sec. 60**: A “change in ownership” means
 - a. a transfer of a present interest in real property,
 - b. including the beneficial use thereof,
 - c. the value of which is substantially equal to the value of the fee interest

+ See *Steinhart v. County of Los Angeles*, (2010) 47 Cal.4th 1298 [104 Cal.Rptr.3d 195, 223 P.3d 57]

Proposition 13 Framework

Legal Authority

- + **RTC Sec. 61**: Lists transfers included in “change in ownership,” as defined in Section 60: e.g.,
 - + Creation of **leasehold** interest of **35+ years**
 - + **Remainder** interests in real property that **vest** on termination of a life estate
 - + Interests in real property that **vest** when a revocable trust becomes irrevocable

Proposition 13 Framework

Legal Authority

- + **RTC Sec. 62**: Lists transfers excluded from “change in ownership”: e.g.,
 - + Proportional interest transfers
 - + Transfers between coowners (or individuals and a legal entity) that result in a change in the method of holding title without changing proportional interests of the coowners (transferors and transferees)
 - + Creation, assignment, reconveyance of security interest
 - + Substitution of trustee

Proposition 13 Framework

Legal Authority

+ **RTC Sec. 62.3**: On a cotenant's death, the transfer of **cotenancy interest** in real property from one cotenant to the other is not a change in ownership if all requirements are met (e.g., principal residence, 100% ownership, etc.)

Proposition 13 Framework

Legal Authority

+ **RTC Sec. 63**: Change in ownership does not include any interspousal transfers (on death, divorce, in trust, or otherwise)

Proposition 13 Framework

Legal Authority

- + **RTC Sec. 63.1**: CIO does not include *specified* transfers between **parents and children** (or grandparents and grandchildren):
 - + Purchase/transfer of **principal residence** of eligible transferor **Limited by Prop 19 (after 2/16/21)**
 - + Purchase or transfer of first \$1 million of **full cash value** of other real property of eligible transferor **Repealed by Prop 19 (after 2/16/21)**

Proposition 13 Framework

Legal Authority

- + **RTC Sec. 63.1**: “Full cash value” is defined in RTC Sec. 63.1(c) to be the “full cash value” defined in RTC Sec. 110.1 with adjustments determined as of the date immediately prior to the transfer to the child/grandchild
 - + I.e., the “taxable value” or “assessed value”

Proposition 13 Framework

Legal Authority

- + **RTC Sec. 64(a)**: Transfers of interests in **legal entities**
 - + As a general rule, no change in ownership

BOE Property Tax Rule 462.180:

- + Interspousal transfer and trust transfer exclusions are available
- + Parent-child exclusion is generally not available
 - + Parent-child step-transaction exception (Legislative “Note” to RTC Sec. 63.1, Stats 1987 ch 48, as amended by Stats 2006 ch 224 § 6)

Proposition 13 Framework

Legal Authority

- + **RTC Sec. 64(c)**: Transfers of interests in **legal entities**
- + Change in ownership of legal entity occurs when any person or entity, directly or indirectly, obtains control or a majority ownership interest (>50%)

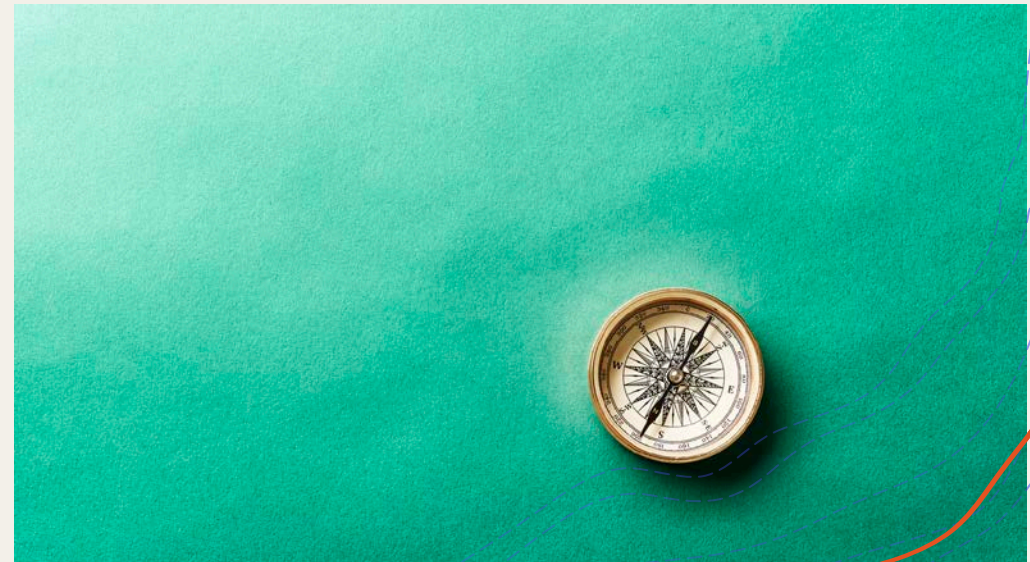
Proposition 13 Framework

Legal Authority

- + **RTC Sec. 64(d)**: Transfers of interests in legal entities
 - + Change in ownership of legal entity occurs when ownership interests representing **cumulatively (i.e., in one or more transactions)** more than 50% of total interests in the entity are transferred by any of the "original coowners"
 - + "Original coowners" are the persons holding ownership interests immediately after a proportional interest transfer to the entity (excluded under RTC 62(a)(2).

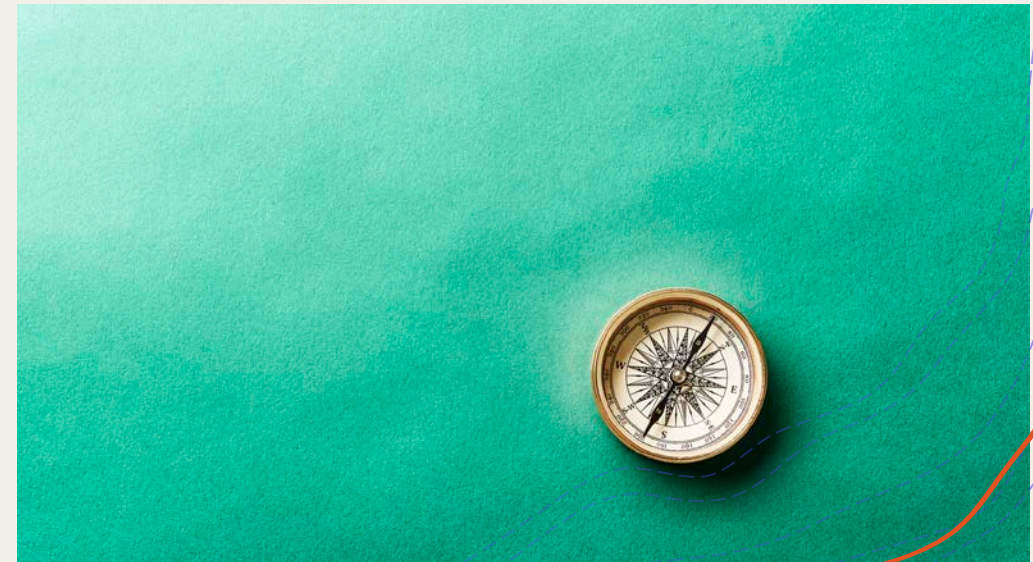
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- + **Proposition 19**
 - + Parent-Child Exclusion
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- + Looking Forward



Proposition 19

- + Parent-Child Exclusion
 - + Substantially *limited*
 - + \$1 million dollar maximum benefit
 - + Principal residence (of parent *and* child)
- + Base Year Value Transfers
 - + *Expanded*
 - + Anywhere in CA
 - + 3 transfers per person (6 per couple)



Proposition 19

+ **Parent-Child Exclusion**

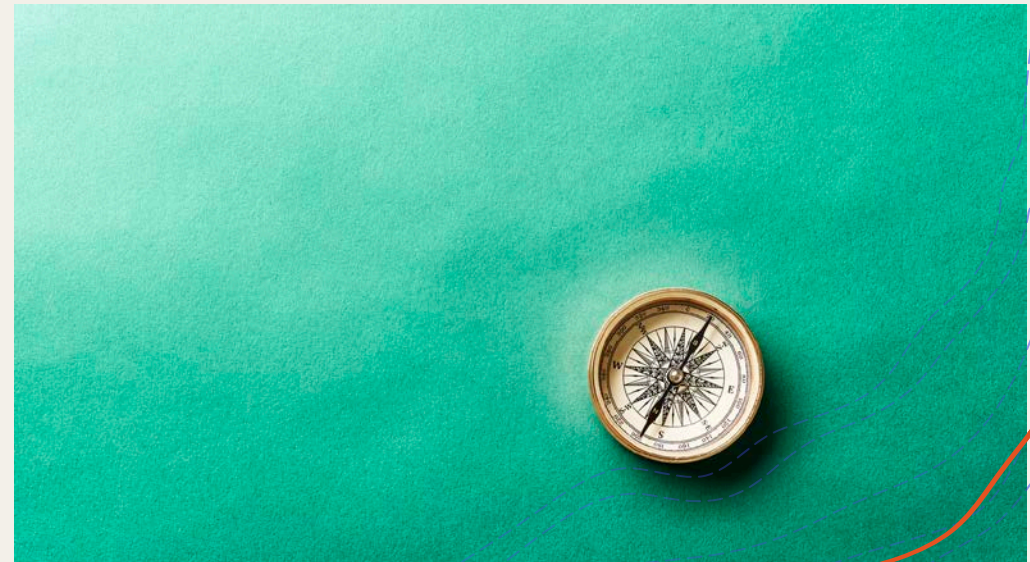
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+ Base Year Value Transfers

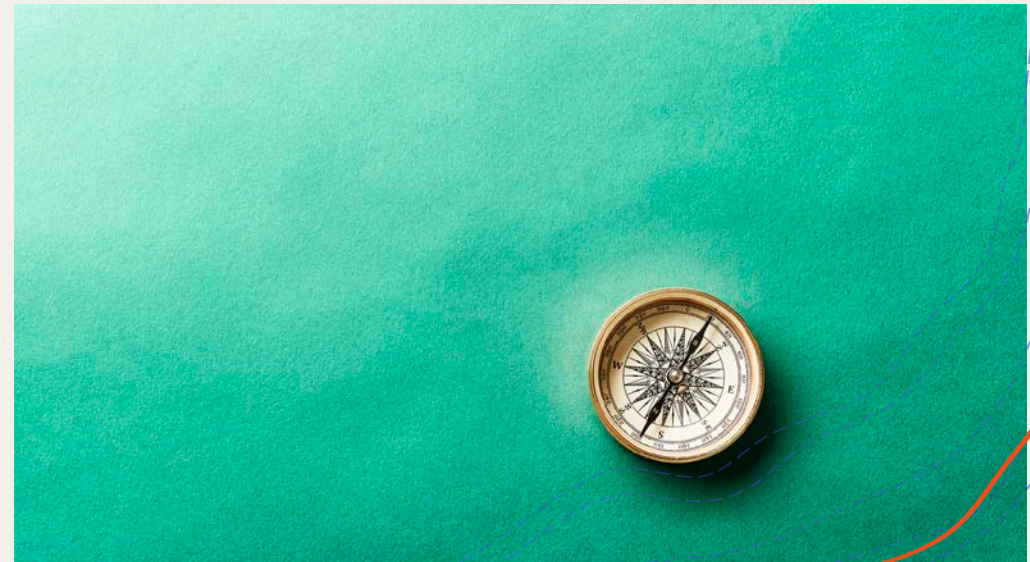
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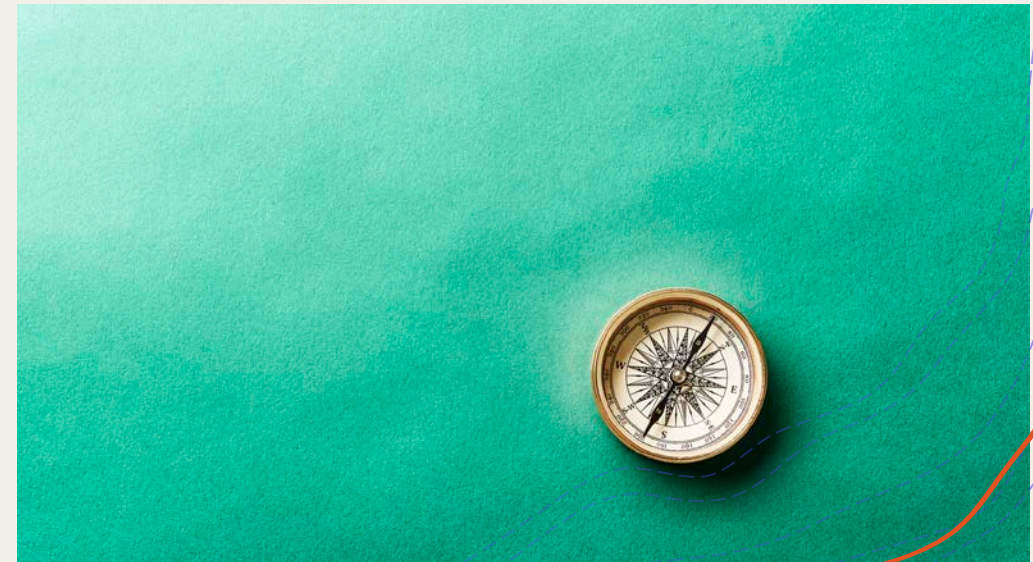
Prop 19: Parent-Child Exclusion

- + Prop 19 **substantially** restricted the parent-child exclusion
- + But a **limited** exclusion remains available if a parent transfers a “**family home**” (or “**family farm**”) to a child, who occupies it as a **principal residence** *within one year*



Prop 19: Parent-Child Exclusion

- + **History**
- + Legal authority / guidance
- + Summary of constitutional changes
- + Qualifying transferees
- + Qualifying property
- + Examples



Prop 19: Parent-Child Exclusion

History

+ Parent-Child Exclusion

+ 1986 / Proposition 58

California Proposition 58		
Result	Votes	Percentage
Yes	5,109,645	75.72%
No	1,638,812	24.28%

+ California Proposition 58, Tax Assessments on Real Estate Transfers Within Families Amendment (1986), Ballotpedia, accessed 9/28/2021

Prop 19: Parent-Child Exclusion

History

+ Grandparent-Grandchild Exclusion

+ 1996 / Proposition 193

California Proposition 193		
Result	Votes	Percentage
Yes	3,725,041	67.29%
No	1,810,493	32.71%

+ California Proposition 193, Property Appraisal Exception for Grandparent-Grandchild Property Transfers Amendment (March 1996), Ballotpedia, accessed 9/28/2021

Prop 19: Parent-Child Exclusion

History

+ Proposition 19

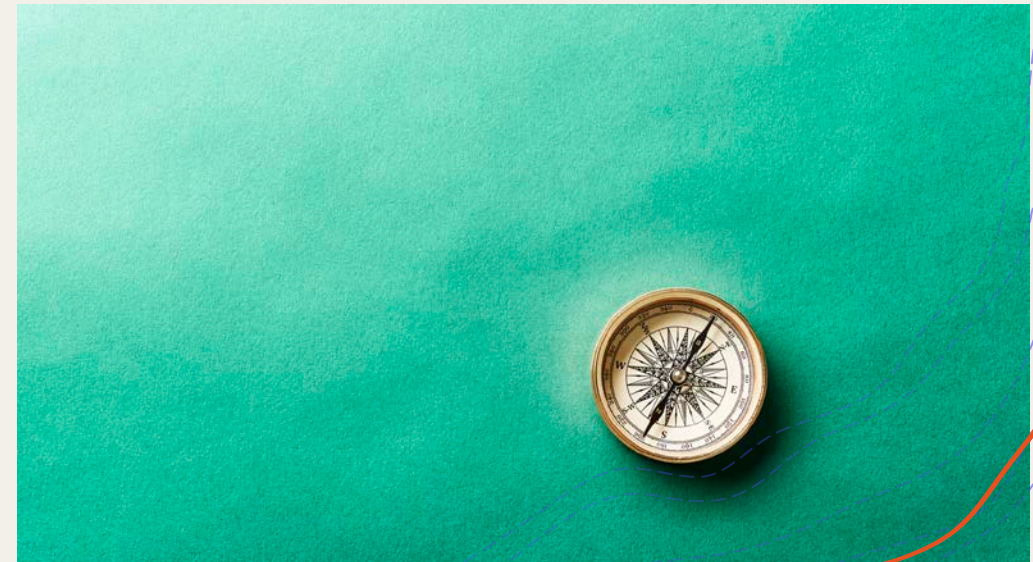
+ 2021 / Proposition 19

California Proposition 19		
Result	Votes	Percentage
Yes	8,545,818	51.11%
No	8,176,105	48.89%

- + California Proposition 19, Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment (2020), Ballotpedia, accessed 9/28/2021

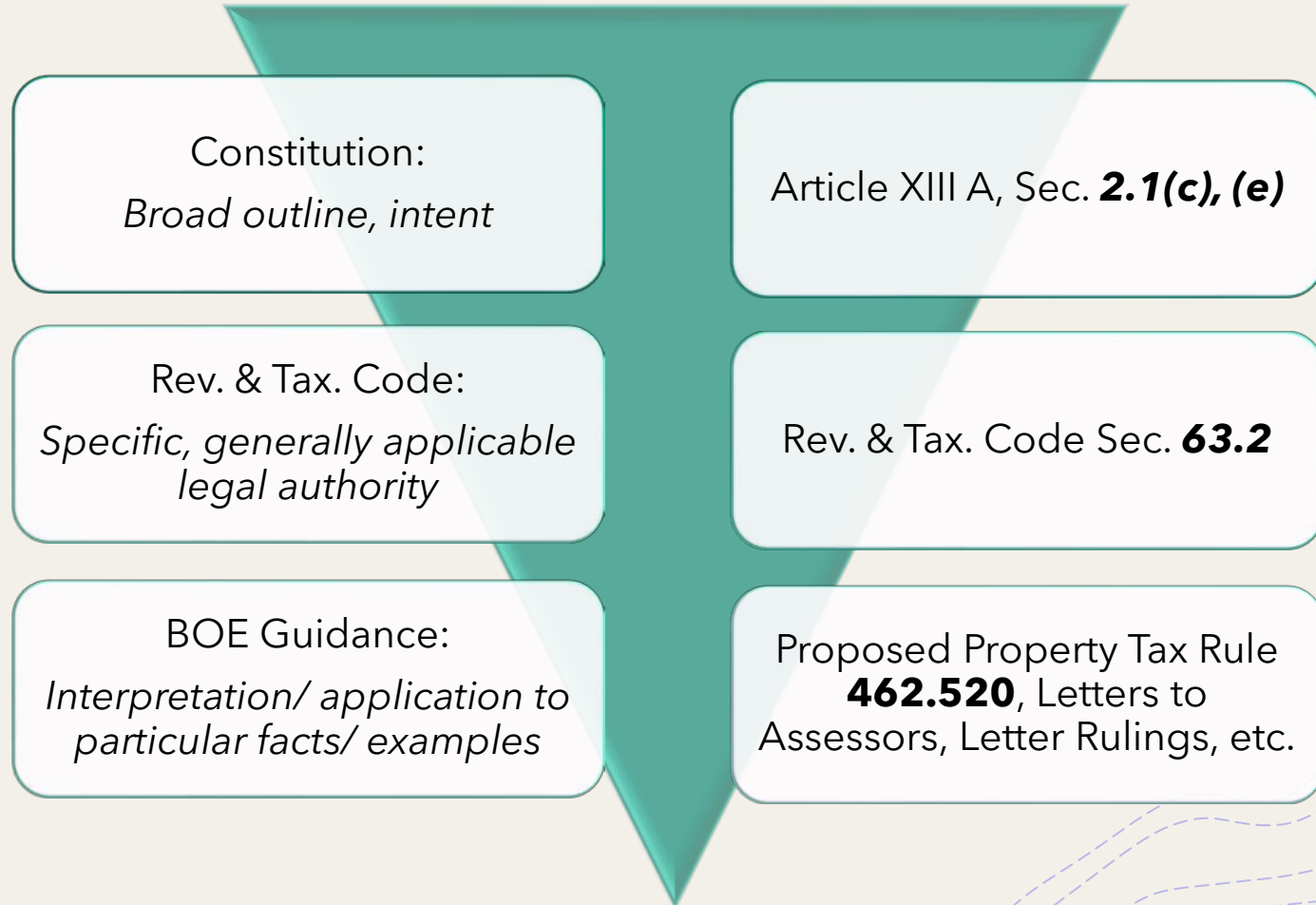
Prop 19: Parent-Child Exclusion

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- + Examples



Prop 19: Parent-Child Exclusion

Legal Authority & Guidance



Prop 19: Parent-Child Exclusion

Legal Authority (Pre-Feb 16/17, 2021)

- + Proposition 58/193
 - + Amendment to Cal. Const. Art. XIII A, **Sec. 2(h)**
- + RTC Sec. **63.1**

Regulatory Guidance (Pre-Feb 16/17, 2021)

- + BOE
 - + Property Tax Rules 462.160, 462.180, etc.
 - + Opinion Letters
 - + Letters to Assessors

Prop 19: Parent-Child Exclusion

Legal Authority (Post-Feb 16/17, 2021)

- + Proposition 19
 - + Amendment to Cal. Const. Art. XIII A, **Sec. 2.1(c),(e)**
- + SB-539 Property taxation: taxable value transfers
 - + Proposed addition of **RTC Sec. 63.2**

Regulatory Guidance (Post-Feb 16/17, 2021)

- + BOE
 - + www.boe.ca.gov/prop19/#Guidance
 - + Proposed **Property Tax Rule 462.520**

Prop 19: Base Year Value Transfer

Legal Authority

+SB-539 Property taxation: taxable value transfers

+Status:

+ Amended bill passed Assembly on 9/7/21 & Senate on 9/8/21

+ Presented to Governor on 9/13/2021

+ To take effect *immediately* on Governor's signature

Date	Chamber	Action
2021-09-13		Enrolled and presented to the Governor at 3:30 p.m.
2021-09-08	Senate	Assembly amendments concurred in. (Ayes 38. Noes 0.) Ordered to engrossing and enrolling.
2021-09-07	Senate	In Senate. Concurrence in Assembly amendments pending.
2021-09-07	Assembly	Read third time. Passed. (Ayes 61. Noes 0.) Ordered to the Senate.
2021-08-30	Assembly	Read second time. Ordered to third reading.
2021-08-26	Assembly	From committee: Do pass. (Ayes 16. Noes 0.) (August 26).

Prop 19: Parent-Child Exclusion

Legal Authority: Principal Residence

Former Law (RTC §63.1)

- Principal residence of transferor
- No value limit
- Residence and homesite (excess land may be excluded as "other property")
- File claim within 3 years or before transfer to third party
- Grandparent-Grandchild: Parent(s) of grandchild, who qualifies as child(ren) of grandparent, must be deceased on date of transfer

Prop 19 (RTC §63.2)

- Principal residence of transferor and transferee
- Value limit of current taxable value plus \$1,000,000 (as annually adjusted)
Family homes and farms
- File for homeowners' exemption within 1 year of transfer
- File claim within 3 years or before transfer to third party

Prop 19: Parent-Child Exclusion

Legal Authority: Other Real Property

Former Law (RTC §63.1)

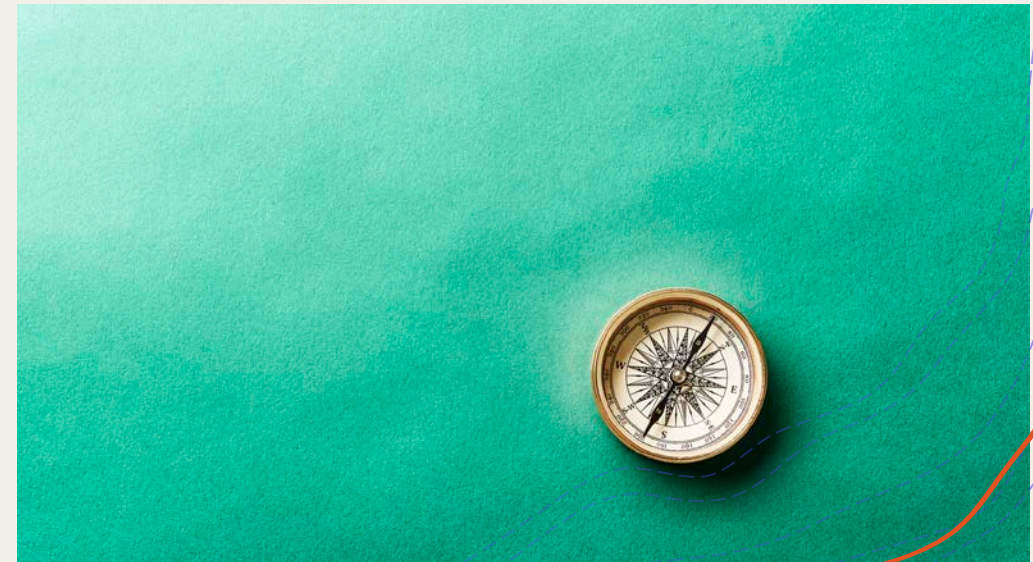
- + Transferor lifetime limit of \$1,000,000 per person of factored base year value. Married Couple or Registered Domestic Partners had a combined \$2,000,000,
- + "Factored Base Value" is essentially the assessed value found on the property tax statements.
- + BOE request for status available _____.

Prop 19 (RTC §63.2)

- + Grandparent-Grandchild: Parent(s) of grandchild, who qualifies as child(ren) of grandparent, must be deceased on date of transfer
- + Eliminates exclusion for other real property other than the principal residence.

Prop 19: Parent-Child Exclusion

- + History
- + Legal authority / guidance
- + ***Summary of constitutional changes***
- + Qualifying transferees
- + Qualifying property
- + Examples & Clarifications



Prop 19: Parent-Child Exclusion

Summary of Constitutional Changes

- + On November 3, 2020, the voters of California approved Proposition 19
 - + Added [Section 2.1](#) to article XIII A of the California Constitution.
 - + Section 2.1(c) and (e) create a new exclusion from change in ownership for transfers of [family homes](#) or [family farms](#) between parents and children and, under certain circumstances, between grandparents and grandchildren.
 - + Referred to as the "[intergenerational transfer exclusion](#)."
 - + Pursuant to the changes enacted by section 2.1(c) and (e), the legislature has passed SB-539 (currently awaiting governor's signature) and BOE proposes to add new Rule 462.520 to clarify the application of the new intergenerational exclusion.
- + [See](#) LTA 2021/010

Prop 19: Parent-Child Exclusion

California Constitution, Art. XIII A, Sec. 2.1(c)

- + Date specified in Prop 19: February 16, 2021
- + Actual effective date for **intervivos transfers**:
on or after **February 17, 2021**
- + Effective date for transfers at **date of death**:
on or after **February 16, 2021**

- + Gov't Code 6700, 6706 & 6707
- + BOE Momo/January 8, 2021 (*Parent-Child Related Questions*) Question/answer 1

Prop 19: Parent-Child Exclusion

California Constitution, Art. XIII A, Sec. 2.1(c)(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*,
 - + if the property continues as the **family home** of the *transferee*.

Prop 19: Parent-Child Exclusion

California Constitution, Art. XIII A, Sec. 2.1(c)(1) *Cont'd*

- + The new **taxable value** of the family home of the transferee [i.e. *after the transfer*] shall be the sum of both of the following:
 - + (A) The **taxable value** of the family home, subject to adjustment . . . 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).**

Prop 19: Parent-Child Exclusion

EXAMPLE

- + MARCH 2020: Paul transfers his Hercules, CA family home to his children Camden and Conrad
 - + The taxable value of the family home immediately prior to the transfer is \$400,000
 - + The assessed value (FMV) of the home is \$1,300,000
- + What is the new taxable value of the family home?
 - + Prior taxable value + \$1,000,000 = \$1,400,000
 - + \$1,400,000 > \$1,300,000
 - + \$400,000 + \$0 = **\$400,000**

Prop 19: Parent-Child Exclusion

EXAMPLE *Continued*

- + MARCH 2020: Paul transfers his Hercules, CA family home to his children Camden and Conrad
 - + The taxable value of the family home immediately prior to the transfer is \$400,000
 - + The assessed value (FMV) of the family home is \$1,500,000
- + What is the new taxable value family home?
 - + Prior taxable value + \$1,000,000 = \$1,400,000
 - + \$1,400,000 < \$1,500,000
 - + \$1,500,000 - \$1,400,000 = \$100,000
 - + \$400,000 + \$100,000 = **\$500,000**

Prop 19: Grandparent-Grandchild Exclusion

California Constitution, Art. XIII A, Sec. 2.1(c)(2)

- + Paragraph (1) [i.e., the parent-child exclusion] 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.

Prop 19: Parent-Child Exclusion

California Constitution, Art. XIII A, Sec. 2.1(c)(3)

- + Paragraphs (1) and (2) *(referring to the parent-child and grandparent-grandchild exclusion)* 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**."

Prop 19: Parent-Child Exclusion

California Constitution, Art. XIII A, Sec. 2.1(c)(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.

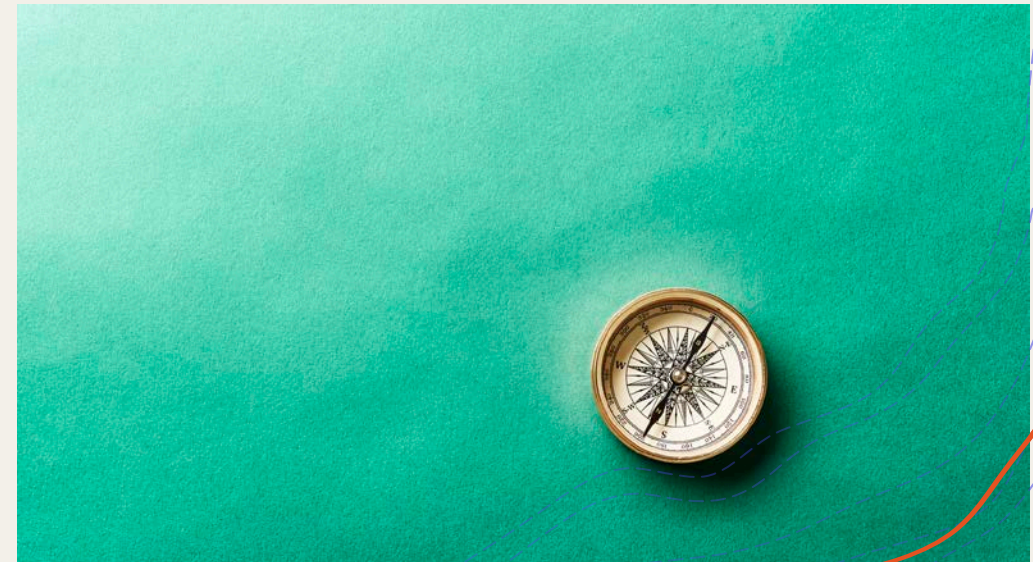
Prop 19: Parent-Child Exclusion

California Constitution, Art. XIII A, Sec. 2.1(c)(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.**

Prop 19: Parent-Child Exclusion

- + History
- + Legal authority / guidance
- + Summary of constitutional changes
- + ***Qualifying transferees***
- + Qualifying property
- + Examples & Clarifications



Prop 19: Parent-Child Exclusion

Qualifying Transferees

+ The principal residence or family farm of the transferor **must become the principal residence/family farm of at least one eligible transferee within one year of the transfer.**

+ BOE Proposed Rule 462.520(a)(1)

Prop 19: Parent-Child Exclusion

Qualifying Transferees

- + The real property must continue to be the principal residence or the family farm of an eligible transferee. *As of the date the property is no longer the **principal residence/family farm** of an **eligible transferee**, the **exclusion shall be removed** and the taxable value of the property shall be determined pursuant to subdivision (d) of this rule.*
- + HOWEVER, *if **another eligible transferee qualifies** for the exclusion within one year of the **property no longer qualifying** as the principal residence of the previous eligible transferee, the **exclusion shall not be removed**.*
- + BOE Proposed Rule 462.520(a)(2); See also RTC §63.2(a)(1)(C)

Prop 19: Grandparent-Grandchild Exclusion

Qualifying Transferees: *Grandparent-Grandchild*

+ In the case of transfers between grandparents and grandchildren, all of the parents of those grandchildren, *who qualify as children of the grandparents*, are **deceased** as of the date of the transfer, EXCEPT that a son-in-law or daughter-in-law of the grandparent who is a stepparent to the grandchild **need not be deceased** on the date of the transfer.

+ BOE Proposed Rule 462.520(a)(3); See also RTC §63.2(a)(1)

Prop 19: Parent-Child Exclusion

Qualifying Transferees

- + (1) "Children" means any of the following:
 - + (A) Any child born of the parent or parents, EXCEPT a child, as defined in subparagraph (D), who has been **adopted by another** person or persons.
 - + (B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.
- + BOE Proposed Rule 462.520(e)(1); See also RTC §63.2(e)(1)

Prop 19: Parent-Child Exclusion

Qualifying Transferees

- + (1) "Children" means any of the following:
 - + (C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.
 - + (D) Any child adopted by the parent or parents pursuant to statute, **OTHER THAN** an individual **adopted after reaching 18** years of age.
- + BOE Proposed Rule 462.520(e)(1); See also RTC §63.2(e)(1)

Prop 19: Parent-Child Exclusion

Qualifying Transferees

- + (1) “Children” means any of the following:
 - + (E) Any foster child of a state-licensed foster parent, if that child was not, **because of a legal barrier**, adopted by the foster parent or foster parents before the child aged out of the foster care system. For purposes of this paragraph, the relationship between a foster child and foster parent shall be deemed to exist until terminated by death. However, for purposes of a transfer that occurs on the date of death, the relationship shall be deemed to exist on the date of death
- + BOE Proposed Rule 462.520(e)(1); See also RTC §63.2(e)(1)

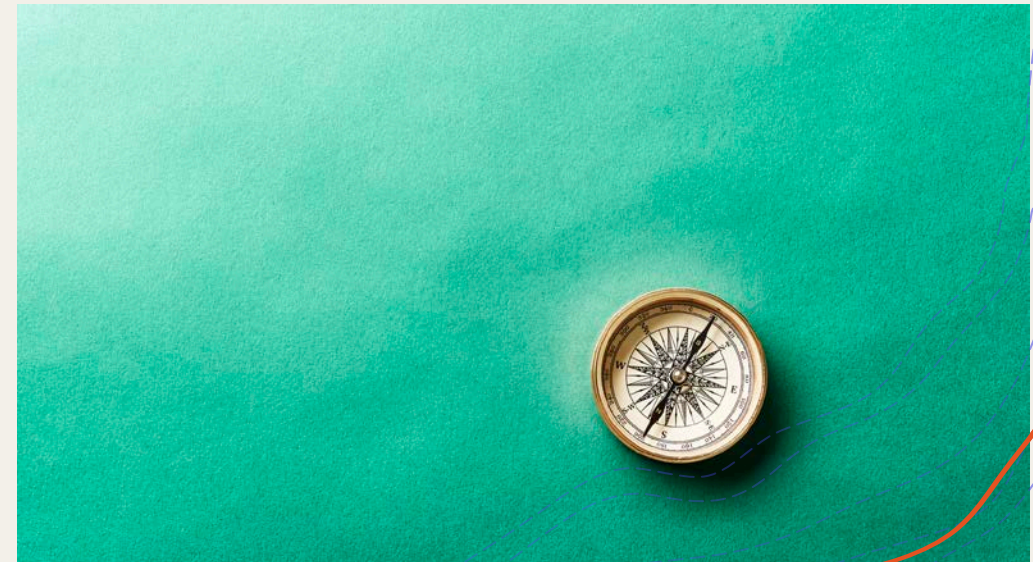
Prop 19: Parent-Child Exclusion

Qualifying Transferees: Unlimited Transfers

- + Nothing in this section limits the number of **principal residences or family farms** of a transferor that may be transferred to an eligible transferee and excluded from change in ownership.
- + BOE Proposed Rule 462.520(a)(5); See also LTA 2021/008 Question/Answer 10 and RTC §63.2(a)(2)

Prop 19: Parent-Child Exclusion

- + History
- + Legal authority / guidance
- + Summary of constitutional changes
- + Qualifying transferees
- + ***Qualifying property***
- + Examples & Clarifications



Prop 19: Parent-Child Exclusion

Qualifying Property

- + **Is there a difference between a family home and a principal residence?**
 - + No
 - + “Family home” or “principal place of residence” means a dwelling that is eligible for a homeowners’ exemption or a disabled veterans’ exemption as a result of the transferor’s ownership and occupation of the dwelling.
- + Cal Const, Art. XIII A § 2.1(e)(3) (See also RTC §63.2(e)(5): Rule 462.520(e)(10))

Prop 19: Parent-Child Exclusion

Qualifying Property

- + Is there a difference between a family home and a principal residence?
 - + We have interpreted the term "**principal residence**" to be synonymous with "*domicile*;" that place where a person has their **true, fixed, and permanent home** and **principal establishment**, and to which whenever that person is absent, they have the **intention of returning**. Therefore, a period of temporary absence alone, for example long-term hospitalization, military service, or temporary job transfer, does not affect the status of the family home as the owner's principal residence.
- + LTA 2021/008, Question/Answer 8

Prop 19: Parent-Child Exclusion

Qualifying Property

What is a family farm?

+ “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](#).

+ Cal. Const, Art. XIII A § 2.1(e)(2); See also LTA 2021/008 Question/Answer 9; RTC§63.2(e)(4); Rule 462.520(e)(6))

Prop 19: Parent-Child Exclusion

Qualifying Property

Must my family farm also have a family home on the property to qualify for exclusion?

+ **No.** The definition of "family farm" contains **no requirement that it be the principal residence** of the transferor or transferee or that the family farm have a family home on the property.

+ LTA 2021/008 Question/Answer 13 (See also RTC §63.2(e)(2)(A))

Prop 19: Parent-Child Exclusion

Qualifying Property

Can a family home or family farm consist of multiple parcels?

- + **Yes**. Multiple parcels can be considered the family home or family farm **if the parcels make up a single appraisal unit**. Factors that may be considered include:
 - + related miscellaneous structures (for example, a detached garage),
 - + minimum zoning requirements,
 - + physical terrain,
 - + access,
 - + actual use,
 - + continuous landscaping, and
 - + fencing.
- + LTA 2021/008 Question/Answer 14 (See also RTC§63.2)

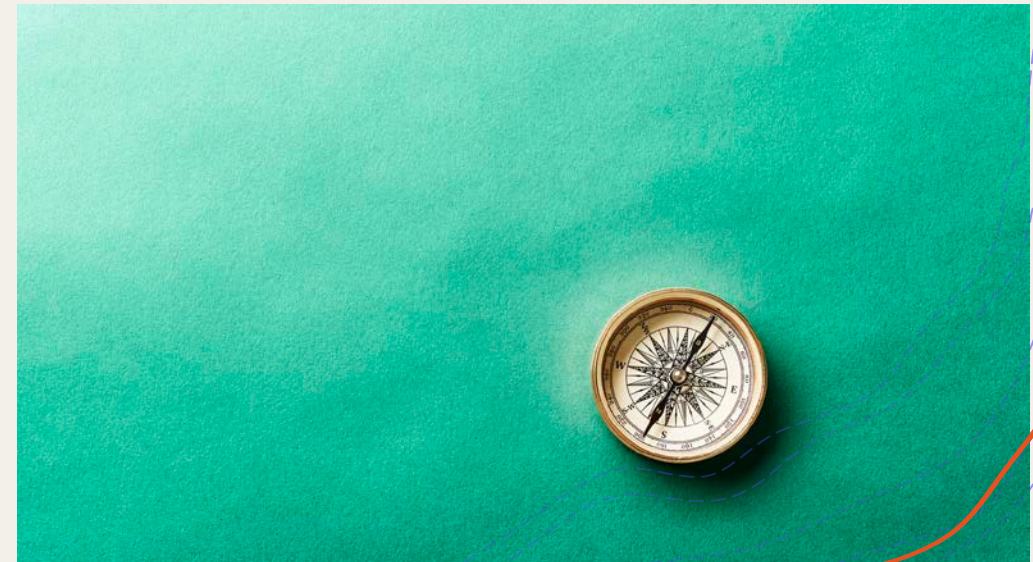
Prop 19: Parent-Child Exclusion

Qualifying Property

- + Patrick occupies a principal residence on land consisting of three contiguous one-acre parcels.
 - + A local zoning ordinance sets the minimum lot size at three acres.
 - + Patrick transfers the three parcels to his son Calvin.
 - + **Does the transfer qualify for the new parent-child exclusion?**
 - + Yes. The three one-acre parcels would be considered a single appraisal unit because one parcel could not be sold separately without the other two parcels.
- + LTA 2021/008 Question/Answer 14 (See also RTC§63.2)

Prop 19: Parent-Child Exclusion

- + History
- + Legal authority / guidance
- + Summary of constitutional changes
- + Qualifying transferees
- + Qualifying property
- + ***Examples & Clarifications***



Prop 19: Parent-Child Exclusion

Example

- + *Patricia died in June 2021. At the time of her death her principal place of residence was her family home in Clayton, CA. In her will she granted a life estate in the Clayton home to her friend Faith with the remainder to Patricia's two children Chad and Caroline.*
- + **Does a change in ownership occur on the transfer of the life estate?**
- + **Yes.** A transfer of a life estate is a change in ownership if it vests in a person other than the transferor, the transferor's spouse, or the transferor's registered domestic partner. *See BOE Rule 462.060.*
- + **Does a change in ownership occur when Faith's life estate terminates?**
- + **Yes.** The vesting of a possessory interest on the termination of a life estate is a change in ownership under **RTC 61(g)**. Therefore, the property will be reassessed and receive a new taxable value on Patricia's death.

+ LTA 2021/008 Question/Answer 23

Prop 19: Parent-Child Exclusion

Example Continued

- + *Patricia died in June 2021. At the time of her death her principal place of residence was her family home in Clayton, CA. In her will she granted a life estate in the Clayton home to her friend Faith with the remainder to Patricia's two children Chad and Caroline.*
- + **Does the remainder interest qualify for the “intergenerational transfer exclusion” from change in ownership?**
- + **Yes.** When the children's rights become possessory (vest), Patricia is **considered the transferor** of the remainder interest, not Faith. Since the Clayton property was Patricia's **family home**, and because Patricia is an **eligible transferor** and Chad and Caroline are **eligible transferees**, the transfer qualifies for the intergenerational transfer exclusion. If a **claim form is timely filed**, the property will not be reassessed on the termination of the life estate.

+ LTA 2021/008 Question/Answer 23

Prop 19: Parent-Child Exclusion

Example Continued

- + *Patricia died in June 2021. At the time of her death her principal place of residence was her family home in Clayton, CA. In her will she granted a life estate in the Clayton home to her friend Faith with the remainder to Patricia's two children Chad and Caroline.*
- + **Should the exclusion claim be filed upon the death of the mother or the termination of the life estate?**
- + The claim should be filed when the children's interests become **possessory**, on the **termination** of the life estate. The claim must be filed within **three years** of the termination of the life estate.

+ LTA 2021/008 Question/Answer 23

Prop 19: Parent-Child Exclusion

Clarification: Non-Pro Rata Distributions

- + *Does Proposition 19 make any changes to the ability of trustees to equalize distributions of estate property in a trust that provides that the children are to receive the trust assets on a share and share alike basis?*
- + Proposition 19 does not change the property tax rules surrounding the operation of trusts, including trusts with share and share alike provisions. However, after February 15, 2021, **only the family home and family farm may be excluded from change in ownership.**
- + LTA 2021/008 Question/Answer 25

Prop 19: Parent-Child Exclusion

Clarification: Legal Entity Interests

- + *My parents own their family home in a limited liability company. Can they transfer their membership shares to me and can I take advantage of the exclusion?*
- + No, this exclusion applies only to transfers of **real property** interests between eligible transferors and eligible transferees. This exclusion **does not apply to transfers of ownership interests in legal entities**, such as partnership interests or corporate stock. Whether or not the family home is reassessed upon transfer to you will depend on the change in ownership rules that apply to real property held by a legal entity. (See RTC§64)
- + LTA 2021/008 Question/Answer 26

Prop 19: Parent-Child Exclusion

Clarification: Step Transaction

- + *Does the step transaction doctrine apply to transfers between parents and children when a transaction is structured in a series of steps using a legal entity in order to use the intergenerational exclusion?*
- + An **uncodified note** in Chapter 48 of the Statutes of 1987 (the legislation which added section 63.1 to the Revenue and Taxation Code) **prohibited the application of the step transaction doctrine to a series of certain transfers of real property between parents and children** accomplished through the use of legal entities. **Similar provisions are not part of Proposition 19.** **Therefore, the step transaction doctrine may be applied to such transfers.**
- + LTA 2021/008 Question/Answer 27

Prop 19: Parent-Child Exclusion

Clarification: Partial Transfers

- + *If my father transfers less than 100 percent of his family home to me, will the portion that I receive qualify for the exclusion?*
- + Yes, as long as you meet all the other requirements. Proposition 19 does not limit its provisions to transfers of 100 percent of a family home.
- + LTA 2021/008 Question/Answer 29

Prop 19: Parent-Child Exclusion

Clarification: Loss of Exclusion

- + *Assume I inherit my parent's family home after February 15, 2021, and have lived there as my family home. After three years, I move out and rent it to someone else. What will happen to my property taxes?*
- + Your property taxes will change to reflect the removal of the exclusion. This means that because the change in ownership that was excluded when you inherited the family home no longer applies, the base year value of the property will be set at the **fair market value of the property when you inherited it**. The base year value will be adjusted for inflation for each year you owned the property as your family home.

+ LTA 2021/008 Question/Answer 33

Prop 19: Parent-Child Exclusion

Clarification: Date of CIO, Trust Transfer Following Life Estate

- + *Mother and Father set up a revocable living trust in 2015.*
- + *When **Mother** passed away in 2019, an irrevocable bypass trust was created to hold title to the family home for the benefit of Father, with the remainder to Child.*
- + ***Father** passed away in 2022. Upon Father's death, the family home held in the bypass trust was distributed to Child.*
- + ***What is the date of change in ownership for purposes of this exclusion?***
- + *The date of transfer of the family home to Father is Mother's date of death, since Father gained the beneficial ownership of the family home on Mother's death. Since this transfer is between spouses, it is **excluded from change in ownership**.*
- + *The family home is transferred again on the date of Father's death, since that is the day the family home was distributed to Child.*
- + *Since the property was transferred to Child in 2022, Proposition 19 intergenerational transfer exclusion provisions will apply to the transfer and not Prop 58/193. (Child must occupy as principal residence within one year)*

+ LTA 2021/008 Question/Answer 36

Prop 19: Parent-Child Exclusion

Clarification: Filing the Claim

- + *When must a claim for exclusion be filed?*
- + To receive property tax relief as of the date of the transfer of real property, claims must be filed within three years after the date of the transfer or prior to the transfer of the real property to a third party, whichever is earlier.
- + If the assessor mails a **notice of supplemental or escape assessment** after the expiration of either of these filing periods, a claim is considered timely if it is **filed no later than six months after the date of mailing of the notice** of supplemental or escape assessment.
- + If a claim is not filed timely, relief can be granted prospectively only if the property is **still owned by the transferee**.

+ LTA 2021/008 Question/Answer 39

Prop 19: Parent-Child Exclusion

Clarification: Filing the Claim

- + Claim forms
 - + BOE-19-P
 - + BOE-19-G

Prop 19: Parent-Child Exclusion

Clarification: Filing the Claim

**CLAIM FOR REASSESSMENT EXCLUSION FOR
TRANSFER BETWEEN PARENT AND CHILD
OCCURRING ON OR AFTER FEBRUARY 16, 2021**

Telephone: (925) 313-7400
<http://www.cccounty.us/assessor>

NAME AND MAILING ADDRESS
(Make necessary corrections to the printed name and mailing address.)

[Redacted Address Box]

A. PROPERTY

ASSESSOR'S PARCEL ID NUMBER		
[Redacted]		
PROPERTY ADDRESS	CITY	
[Redacted]	[Redacted]	
RECORDER'S DOCUMENT NUMBER	DATE OF PURCHASE OR TRANSFER	
[Redacted]	[Redacted]	
PROBATE NUMBER (if applicable)	DATE OF DEATH (if applicable)	DATE OF DECREE OF DISTRIBUTION (if applicable)
[Redacted]	[Redacted]	[Redacted]

B. TRANSFEROR/SELF (FBI/%) (Additional transferors please complete Section D on the reverse)

Prop 19: Parent-Child Exclusion

Clarification: Filing the Claim

B. TRANSFEROR(S)/SELLER(S) (additional transferors please complete Section D on the reverse)		
Print full name(s) of transferor(s)	Name	Name
Family relationship(s) to transferee(s)	Relationship	Relationship

1. If child was adopted, age at time of adoption? _____

2. Was this property the transferor's family farm? ☐ Yes ☐ No

3. Was this property the transferor's principal residence? ☐ Yes ☐ No
If yes, please check which of the following exemptions was granted or was eligible to be granted on this property:
☐ Homeowners' Exemption ☐ Disabled Veterans' Exemption

4. Was only a partial interest in the property transferred? ☐ Yes ☐ No If yes, percentage transferred _____ %

5. Was this property owned in joint tenancy? ☐ Yes ☐ No

IMPORTANT: If the transfer was through the medium of a will and/or trust, you must attach a full and complete copy of the will and/or trust and all amendments.

Prop 19: Parent-Child Exclusion

Clarification: Filing the Claim

If NO, was the marriage or registered domestic partnership terminated by: ☐ Death ☐ Divorce/Termination of partnership

If terminated by death, had the surviving child-in-law remarried or entered into a registered domestic partnership as of the date of purchase or transfer? ☐ Yes ☐ No

3. Is this property continuing to be used as the family farm by the transferee? ☐ Yes ☐ No

4. Is this property going to be the transferee's principal residence? ☐ Yes ☐ No

If Yes, please check which of the following exemptions for which a claim was filed and complete a, b, and c below. (Please note that the transferee must file for one of these exemptions within one year of the date of transfer.)

☐ Homeowners' Exemption ☐ Disabled Veterans' Exemption Date Filed _____

a. Name of transferee who filed exemption claim _____

b. Date the transferee occupied this property as a principal residence _____ (month/day/year)

c. Does the transferee own another property that is or was their principal residence? ☐ Yes ☐ No

If Yes, please provide the address below and the move-out-date.

ADDRESS	COUNTY	ASSESSOR'S PARCELID NUMBER
CITY, STATE, ZIP		MOVE-OUT-DATE (month/day/year)

CERTIFICATION

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information herein, including any

Prop 19: Parent-Child Exclusion

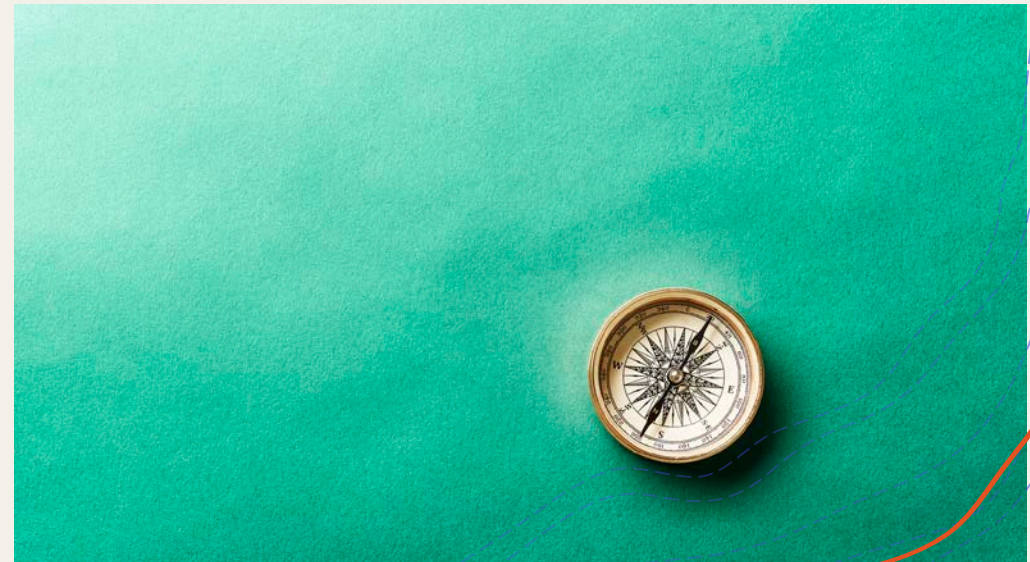
Clarification: Prospective Relief

- + *What is meant by “prospective relief”?*
- + If a claim is filed (late) after the conclusion of the specified filing periods described previously, the exclusion may be granted as of the year that the claim is filed, but will not be backdated to the date the transfer actually occurred. For example, untimely claims filed in 2022 shall apply as of the 2022 lien date (January 1, 2022) for the 2022-23 fiscal year, but not for any prior years.

+ LTA 2021/008 Question/Answer 42

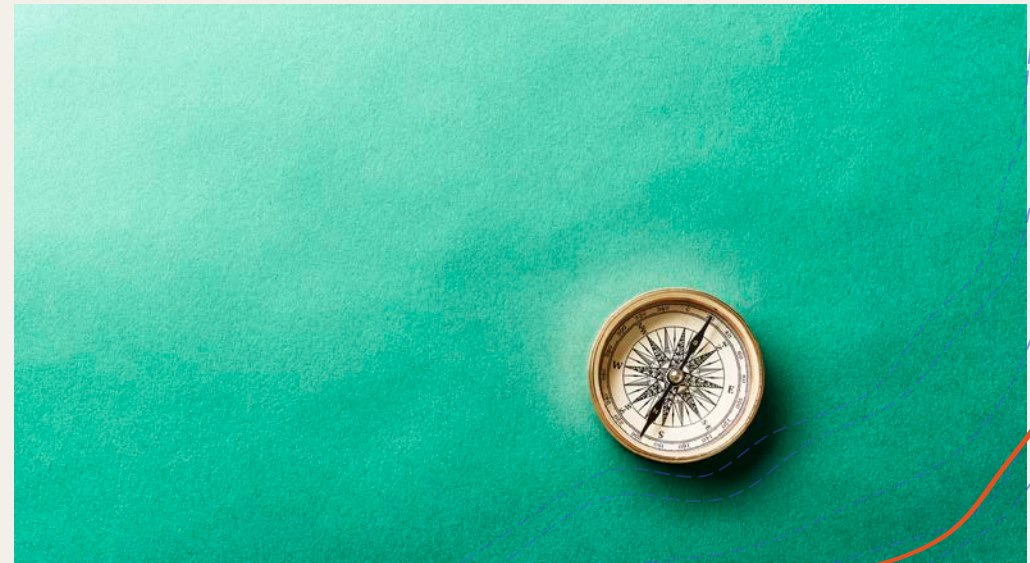
Agenda

- + Ballot Initiatives in CA
- + Proposition 13 Framework
- + **Proposition 19**
 - + Parent-Child Exclusion
 - + Base Year Value Transfers
- + Looking Forward



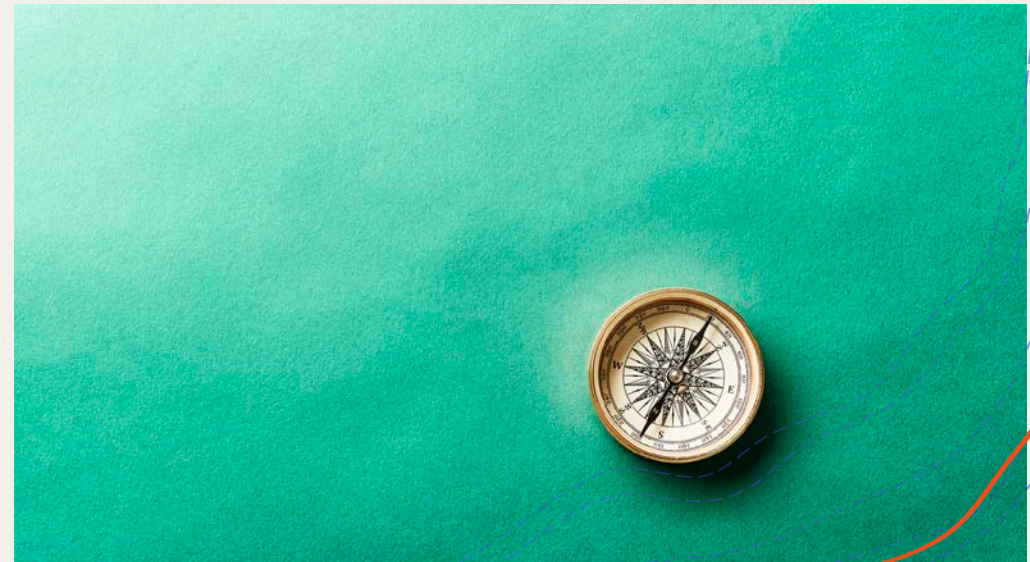
Proposition 19

- + Parent-Child Exclusion
- + Base Year Value Transfers



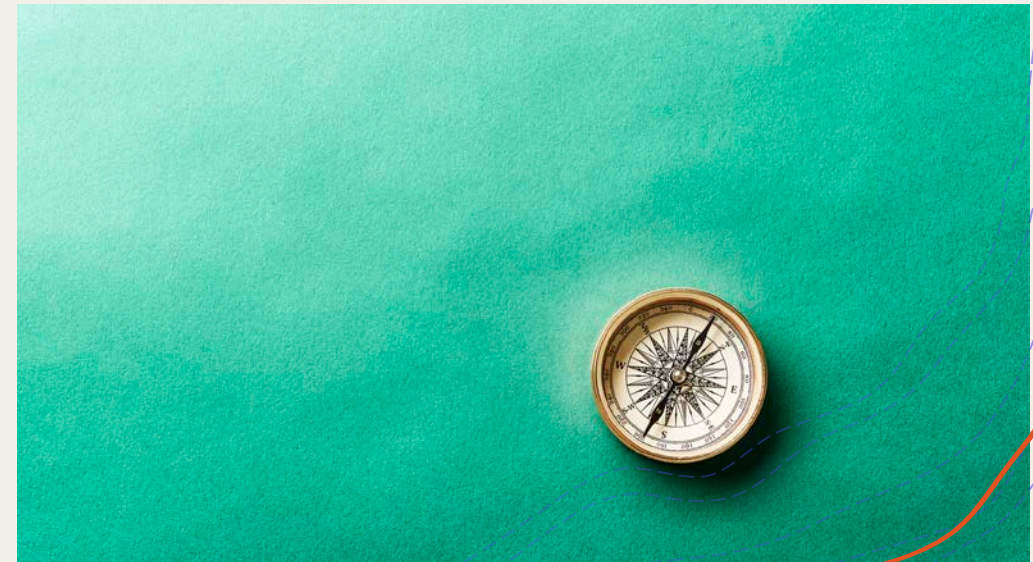
Proposition 19

- + Parent-Child Exclusion
- + ***Base Year Value Transfers***



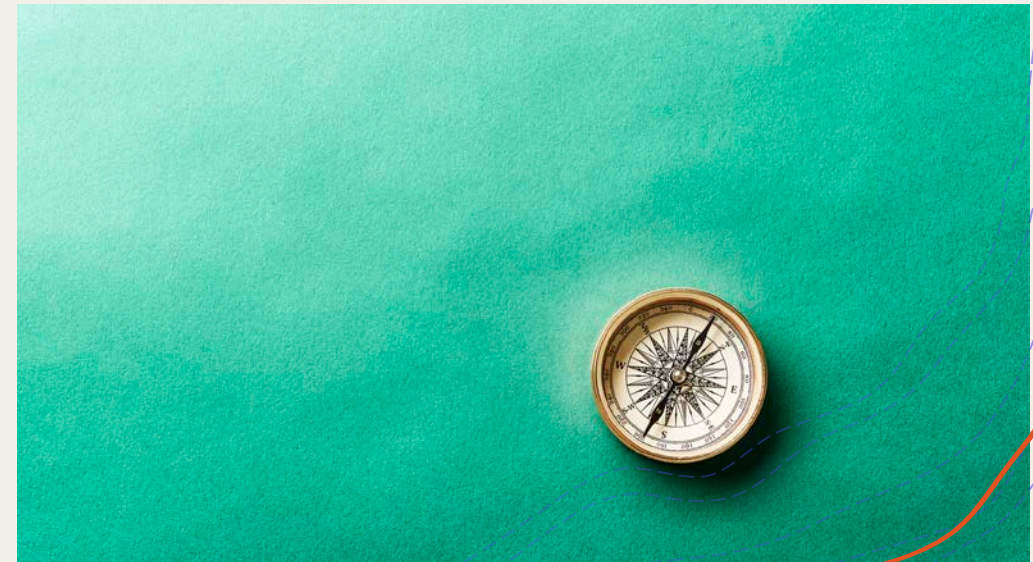
Prop 19: Base Year Value Transfer

- + Generally a change in ownership occurs on a purchase of a residence,
- + But qualifying homeowners may transfer Prop 13 taxable value from **original** primary residence to **replacement** primary residence



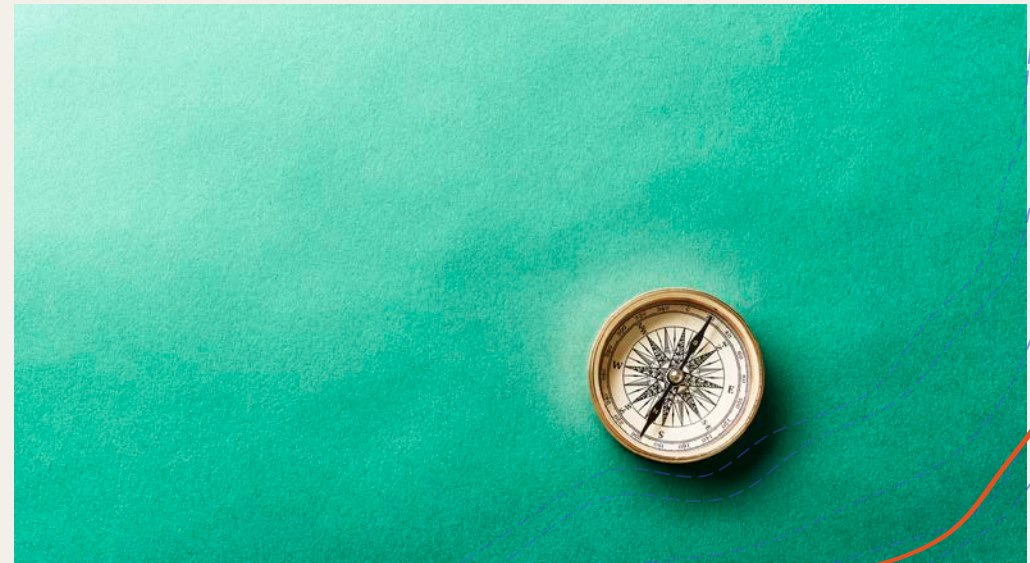
Prop 19: Base Year Value Transfer

- + Prop 19 *expands* the existing base year value transfer options
 - + Transfer *anywhere* in CA
 - + No value limitation
 - + May be used up to **3 times** per person—**6 times** per married couple



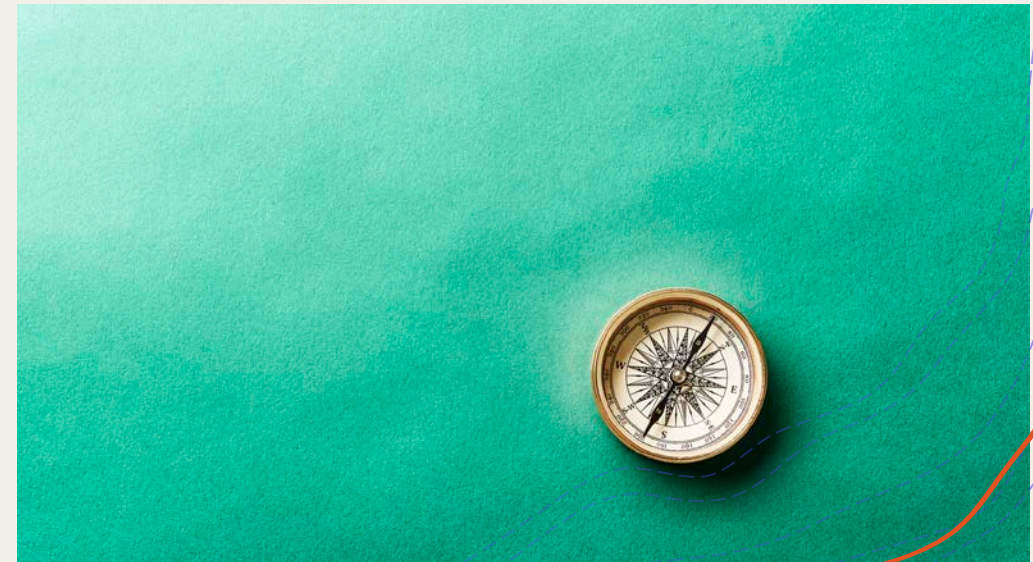
Prop 19: Base Year Value Transfer

- + History
- + Legal authority / guidance
- + Effective date
- + Who is eligible?
- + What property qualifies?
- + How is new BYV calculated?
- + Filing the claim



Prop 19: Base Year Value Transfer

- + **History**
- + Legal authority / guidance
- + Effective date
- + Who is eligible?
- + What property qualifies?
- + How is new BYV calculated?
- + Filing the claim



Prop 19: Base Year Value Transfer

History

+ 55+ Years

- + 1986 / Proposition 60 / RTC Sec. 69.5 / *Within* county
- + 1988 / Proposition 90 / RTC Sec. 69.5 / *Between* counties

+ Severely and Permanently Disabled

- + 1990 / Proposition 110 / RTC Sec. 69.5 / *Within & between* counties

+ Governor-proclaimed Disaster

- + 1986 / Proposition 50 / RTC Sec. 69 / *Within* county / All real property
- + 1993 / Proposition 171 / RTC Sec. 69.3 / *Within & between* counties

Prop 19: Base Year Value Transfer

History

+ 55+ Years & Severely Disabled

+ 2018 / Proposition 5 / *Any county & no value limitation*

+ DEFEATED

+ No: 59.78 %

+ Yes: 40.22 %

Prop 19: Base Year Value Transfer

History

+ Proposition 19

+ 2021 / Proposition 19

California Proposition 19		
Result	Votes	Percentage
Yes	8,545,818	51.11%
No	8,176,105	48.89%

- + California Proposition 19, Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment (2020),, Ballotpedia, accessed 9/28/2021

History: Governor-proclaimed disaster

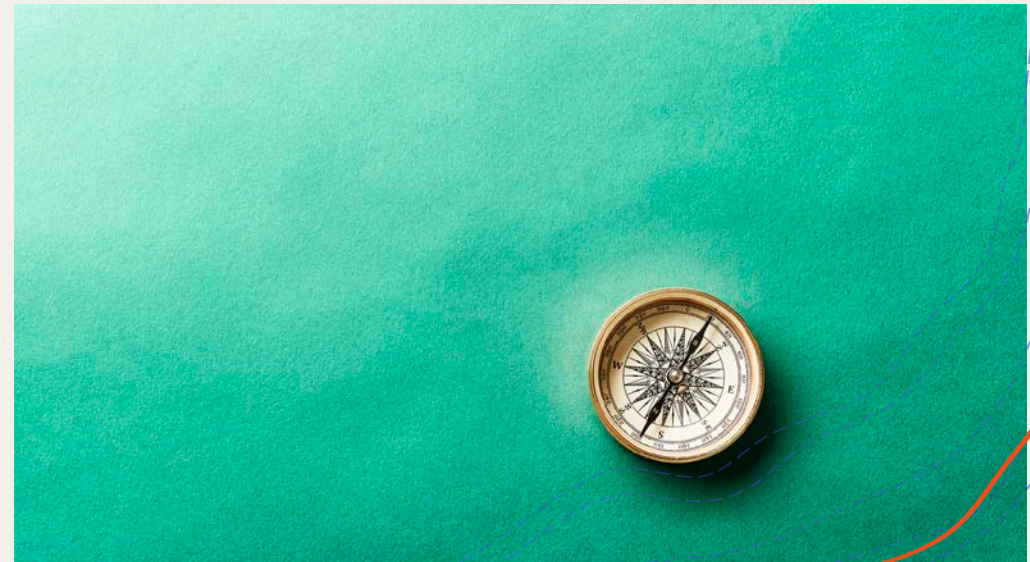
- + RTC Sec. 69 and 69.3 remain available to disaster victims after Prop 19
- + See Letter to Assessors 2021/026, "Base Year Value Transfers for Governor-proclaimed Disasters," June 25, 2021

Code Section	Property Type	Must Sell?	Time Period	Location Test	Value Test	Operative Date
RTC 69	<u>All</u>	No	<u>5 years</u> from disaster	Same county	120%*	07/01/1985
RTC 69.3	Principal residence	No	3 years from disaster	County w/ ordinance	Equal or lesser value	10/20/1991
RTC 69.6	Principal residence	<u>Yes</u>	2 years from <u>SALE</u>	State of California	Equal or lesser value*	04/01/2021

*Partial relief available above indicated value

Prop 19: Base Year Value Transfer

- + History
- + ***Legal authority / guidance***
- + Effective date
- + Who is eligible?
- + What property qualifies?
- + How is new BYV calculated?
- + Filing the claim



Prop 19: Base Year Value Transfers

Legal Authority (Pre-Apr 1, 2021)

- + Propositions 60/90/110/50/171
 - + Amendments to Cal. Const. Art. XIII A, **Sec. 2**
- + RTC Sec. 69, 69.3, **69.5**, etc.

Regulatory Guidance (Pre-Apr 1, 2021)

- + BOE
 - + Opinion Letters
 - + Letters to Assessors (2006/010, etc.)

Prop 19: Base Year Value Transfer

Legal Authority (Post-Apr 1, 2021)

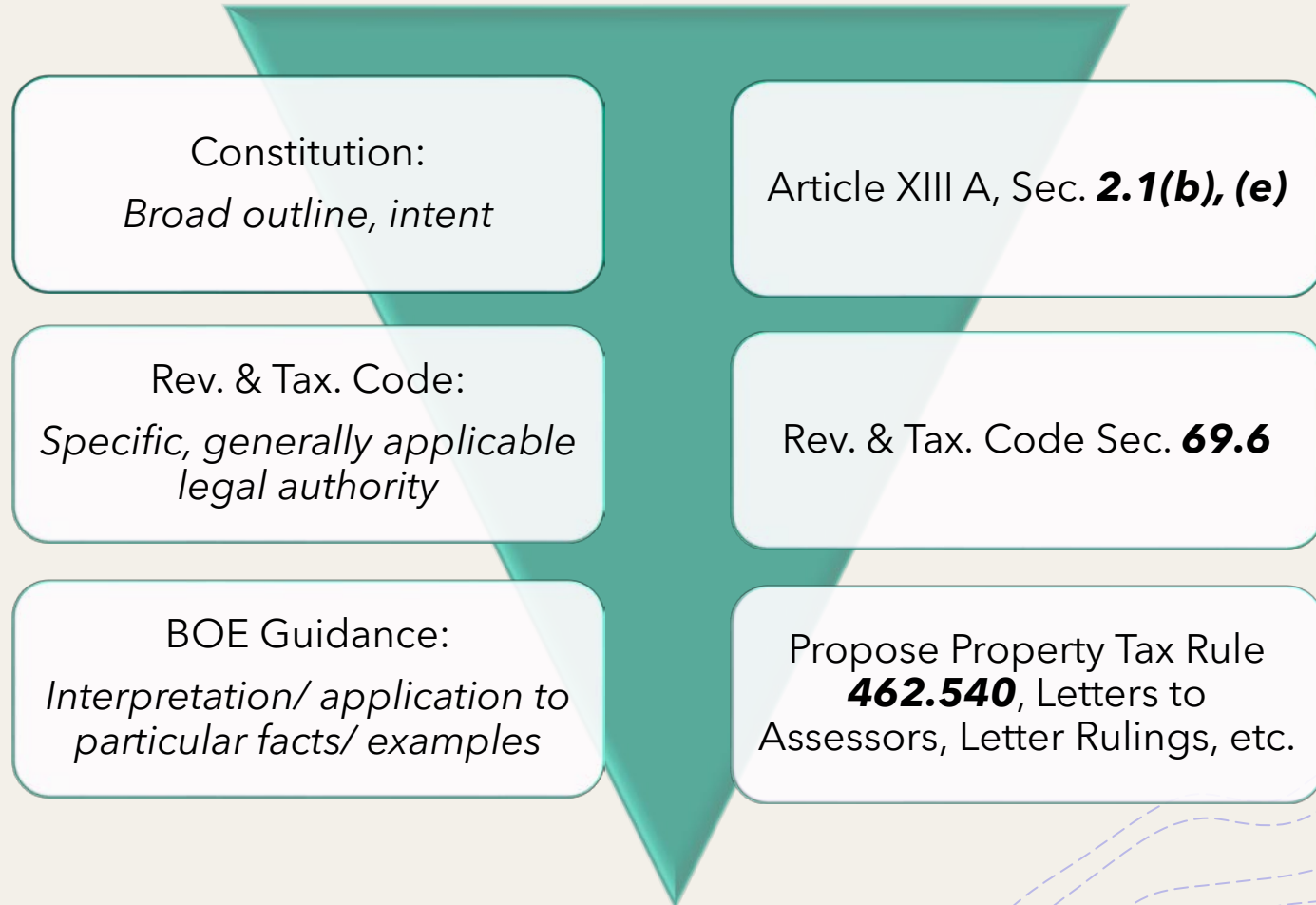
- + Proposition 19
 - + Amendment to Cal. Const. Art. XIII A, **Sec. 2.1(b),(e)**
- + SB-539 Property taxation: taxable value transfers
 - + Proposed addition of **RTC Sec. 69.6**

Regulatory Guidance (Post-Apr 1, 2021)

- + BOE
 - + www.boe.ca.gov/prop19/#Guidance
 - + Proposed **Property Tax Rule 462.540**

Prop 19: Base Year Value Transfer

Legal Authority & Guidance



Prop 19: Base Year Value Transfer

Legal Authority

+SB-539 Property taxation: taxable value transfers

+Status:

+ Amended bill passed Assembly on 9/7/21 & Senate on 9/8/21

+ Presented to Governor on 9/13/2021

+ To take effect *immediately* on Governor's signature

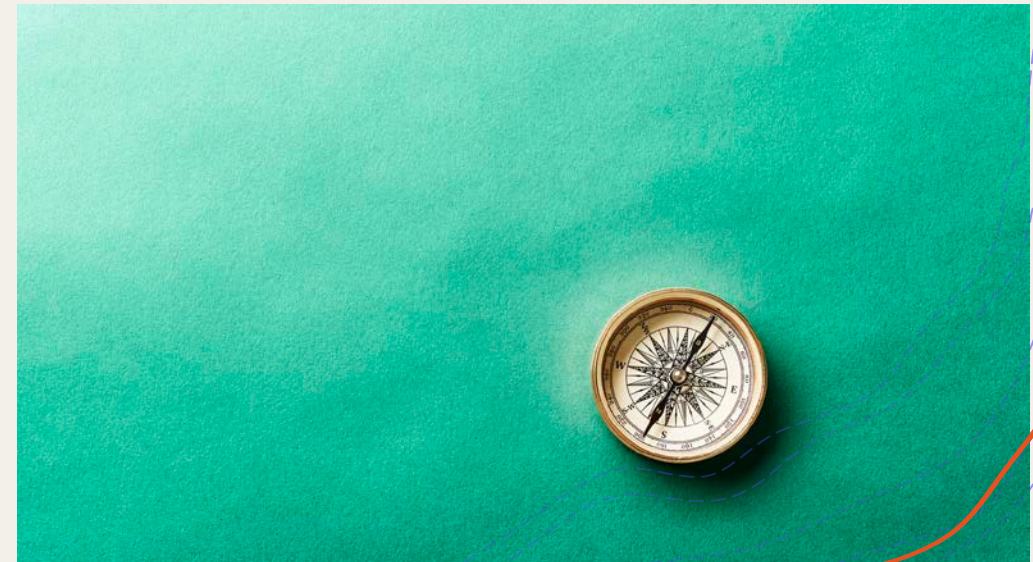
Date	Chamber	Action
2021-09-13		Enrolled and presented to the Governor at 3:30 p.m.
2021-09-08	Senate	Assembly amendments concurred in. (Ayes 38. Noes 0.) Ordered to engrossing and enrolling.
2021-09-07	Senate	In Senate. Concurrence in Assembly amendments pending.
2021-09-07	Assembly	Read third time. Passed. (Ayes 61. Noes 0.) Ordered to the Senate.
2021-08-30	Assembly	Read second time. Ordered to third reading.
2021-08-26	Assembly	From committee: Do pass. (Ayes 16. Noes 0.) (August 26).

Sec. 2.1(b): Property Tax Fairness for Seniors, the Severely Disabled, and Victims of Wildfire and Natural Disasters

- + Beginning on and after April 1, 2021 ...
- + 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 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**
- + 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.

Prop 19: Base Year Value Transfer

- + History
- + Legal Authority / guidance
- + **Effective date**
- + Who is eligible?
- + What property qualifies?
- + How is new BYV calculated?
- + Filing the claim



Prop 19: Base Year Value Transfer

Effective Date

- + Applies to transfers occurring on or after **April 1, 2021**
- + Taxable value “transfers” on the later of
 - + (a) the sale of the “original property” OR
 - + (b) the purchase/construction of “replacement dwelling”
- + *Either* sale or purchase—*not both*—may occur before **April 1, 2021**
 - + See RTC Sec. 69.6(b)(5)(A) & PTR 462.540(a)(1)

Prop 19: Base Year Value Transfer

Effective Date

- + For transfers before April 1, 2021, prior law applies:
 - + Cal. Const. Art. XIII A, Sec. 2(a)
 - + RTC Sec. 69.5

Prop 19: Base Year Value Transfer

EXAMPLE

- + NOVEMBER 2019: Claimant completes construction of replacement dwelling in El Dorado County (\$1,500,000 full cash value)
- + OCTOBER 2021: Claimant sells original property in Walnut Creek (\$500,000 taxable value)
- + Assuming all other requirements are met (owner of PR, 55+/SD/V, etc.), claimant is **eligible** for base year value transfer b/c "transfer" occurs after April 1, 2021
 - + Replacement dwelling may be anywhere in CA
 - + NO value limitation on taxable value transfer
 - + Planning can include completed sale, purchase, etc. as far back as 2019
- + Practical consideration
 - + Owner pays taxes on **full cash value** of replacement dwelling *until* base year value transfer occurs in April 2021, but after claim is approved, excess taxes are subject to cancellation or refund (RTC Sec. 69.6(e)(5))

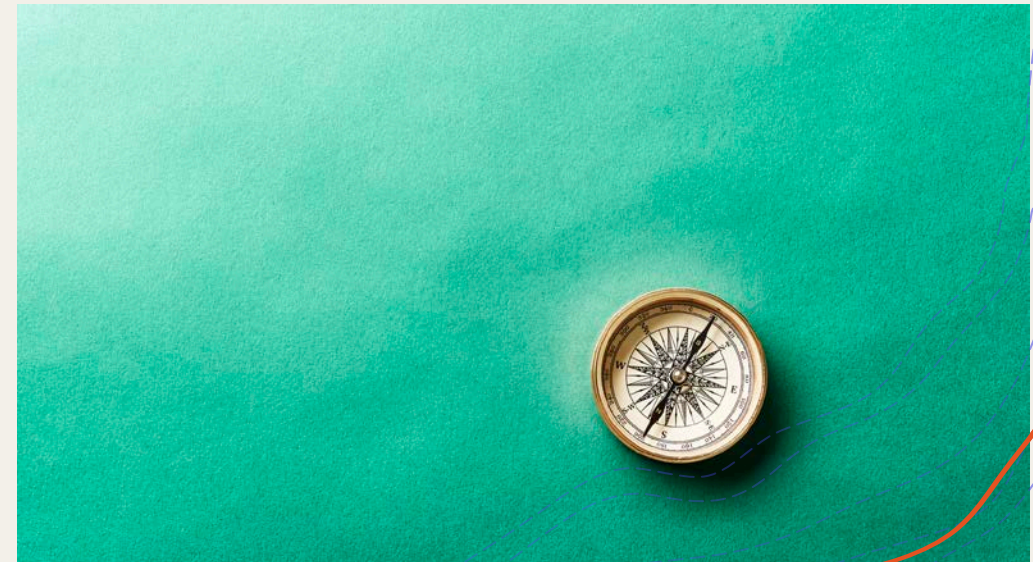
Prop 19: Base Year Value Transfer

EXAMPLE

- + NOVEMBER 2019: Claimant completes construction of replacement dwelling in El Dorado County for \$1,500,000
- + MARCH 2021: Claimant sells original property in Walnut Creek (\$500,000 taxable value)
- + APRIL 2021: Sale transfer is recorded
 - + Date of transfer in a sale is *rebuttably presumed* to be the recording date (close of escrow instructions)
 - + Assuming all other requirements are met, claimant is **eligible** for base year value transfer (unless parties to sale specifically agree to earlier transfer date)
- + See Property Tax Rule 462.260(a), LTA 2021/019

Prop 19: Base Year Value Transfer

- + History
- + Legal Authority / guidance
- + Effective date
- + ***Who is eligible?***
- + What property qualifies?
- + How is new BYV calculated?
- + Filing the claim



Prop 19: Base Year Value Transfer

Who is eligible?

+ Owner of a primary residence AND

1. At least 55 years of age
2. Severely disabled OR
3. Victim of a wildfire or natural disaster

+ Cal. Const., Art. XIII A, Sec. 2.1(b)

Prop 19: Base Year Value Transfer

Who is eligible?

+ **Owner** of a primary residence:

- + Record title owner on current deed
- + May be a co-owner
- + For spouses, *only one spouse* must meet eligibility requirements

Prop 19: Base Year Value Transfer

Who is eligible?

- + Owner of a **primary residence** (i.e. "principal residence"):
 - + **Homeowners Exemption**: Principal residence of an owner-occupier (Cal. Const. Article XIII Sec. 3(k))
 - + **Disabled Veterans Exemption**: Principal residence of a veteran owned by veteran or spouse (RTC Sec. 205.5)

Prop 19: Base Year Value Transfer

Who is eligible?

+ **Principal Residence** (functional definition)

- + A person's true, fixed, and permanent home and principal establishment to which the owner, whenever absent, intends to return.
- + Proof: Vehicle registration, voter registration, bank accounts, income tax records, etc.

+ See LTA 2006/010

Prop 19: Base Year Value Transfer

Who is eligible?

- + **RTC Sec. 69.6** defines an “Original Property”
 - + Place of abode (building/shelter)—whether real property or personal property—owned and occupied as **principal place of residence**
 - + Original Property must qualify for homeowners’ exemption or disabled veteran exemption to be eligible for base-year value transfer
- + Ultimately relies on definition of “**principal (place of) residence**”

Prop 19: Base Year Value Transfer

Who is eligible?

1. Over 55 years of age

- + "Over" means "at least" 55 years of age
- + Must be 55+ years when original property is sold
- + If married, claimant's spouse is NOT required to be over 55 years of age (even if a co-owner)

+ See LTA 2021/019

Prop 19: Base Year Value Transfer

EXAMPLE

- + JUNE 2020: Candace (50) and Charles (53) (both record title owners) sell original property in San Ramon for \$1,000,000 (\$600,000 taxable value)
- + APRIL 2022: Charles turns 55
- + MAY 2022: Candace and Charles (both record title owners) purchase property in San Luis Obispo County for \$1,200,000
- + Assuming other requirements are met, may Charles claim a base year value transfer?
 - + **No!** Charles turned 55 after the original property was sold

Prop 19: Base Year Value Transfer

EXAMPLE

- + JUNE 2020: Candace (50) and Charles (53) (both record title owners) purchase property in San Luis Obispo County for \$1,200,000
- + APRIL 2022 : Charles turns 55
- + MAY 2022 : Candace and Charles (both record title owners) sell original property in San Ramon (\$600,000 taxable value)
- + Assuming other requirements are met, may Charles claim a base year value transfer?
 - + **Yes!** Charles turned 55 before the original property was sold
 - + Planning can include completed purchase/construction (but not sale) before the claimant reached age 55

Prop 19: Base Year Value Transfer

Who is eligible?

2. Severely Disabled

- + NOT defined in Prop 19
- + BOE Chief Counsel Memo (1/8/2021)
 - + NOT required to be *permanently* disabled
 - + NOT limited to a *physical* disability

Prop 19: Base Year Value Transfer

Who is eligible?

2. Severely Disabled

+ Form BOE-19-DC

- + “Severely disabled person” defined as “greatly limited by a physical, mental, cognitive, or developmental condition”
- + Requires **certification from licensed physician/surgeon** that disability is “severe,” identifying specific reasons why disability necessitates the move to the replacement dwelling
- + Requires **certification from claimant** that the “primary purpose” of the move is to either
 - + Satisfy disability-related requirements OR
 - + Alleviate financial burdens caused by disability

EF-19-D-R00-0221-07000098-1

BOE-19-D (P1) REV. 00 (02-21)

CLAIM FOR TRANSFER OF BASE YEAR VALUE TO REPLACEMENT PRIMARY RESIDENCE FOR SEVERELY DISABLED PERSONS

Applies to base year value transfers occurring on or after April 1, 2021.

Include form BOE-19-DC, *Certificate of Disability*, when filing this form.

You may also qualify for exclusion from reassessment for new construction which makes an existing dwelling more accessible to a severely and permanently disabled person who is a permanent resident of the dwelling. Contact your Assessor's office for further information and a copy of BOE-63, *Disabled Persons Claim for Exclusion of New Construction*.



Gus Kramer

County Assessor

2530 Arnold Drive, Suite 100

Martinez, CA 94553-4359

FAX: (925) 313-7488

Telephone: (925) 313-7400

<http://www.cccounty.us/assessor>

A. REPLACEMENT PRIMARY RESIDENCE

ASSESSOR'S PARCEL/ID NUMBER

RECORDER'S DOCUMENT NUMBER

DATE OF PURCHASE

DATE OF COMPLETION OF NEW CONSTRUCTION (if applicable)

PURCHASE PRICE

\$

COST OF NEW CONSTRUCTION (if applicable)

\$

PROPERTY ADDRESS

CITY

COUNTY

1. Do you occupy the replacement primary residence as your principal place of residence? ☐ YES ☐ NO

2. Is the new construction described performed on a replacement primary residence which has already been granted the base year value transfer within the past two years? ☐ Yes ☐ No If yes, what was the date of your original claim?



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CERTIFICATE OF DISABILITY

The claimant listed below has applied to transfer their property tax base to a replacement primary residence. In order to qualify for this tax benefit, a licensed physician or surgeon of appropriate specialty must certify that the disability of the claimant, or claimant's spouse, is severe. The definition of a severely disabled person is any person having a great degree of impairment or who is greatly limited by a physical, mental, cognitive, or developmental condition.

I. TO BE COMPLETED BY A PHYSICIAN *(please print)*

Patient's Name:

Date of disability:

Description of patient's disability:

Identify: (1) the specific reasons why the disability necessitates a move to the replacement primary residence and (2) the disability-related requirements, including any locational requirements, of a replacement primary residence:

I am a licensed

☐ physician

☐ surgeon. My specialty is:

CERTIFICATION OF DISABILITY

I certify that in my medical opinion, the above-named patient does qualify as a disabled person according to the definition above.

Prop 19: Base Year Value Transfer

Who is eligible?

2. Severely Disabled

+ **BUT** RTC Sec. 69.6: “severely and permanently disabled”

+ RTC sec. 74.3: Permanent, physical disability impairing employment or major life activity

+ **???**

+ Watch for further BOE guidance on this question

Prop 19: Base Year Value Transfer

Who is eligible?

3. Victim of wildfire or natural disaster
 - + Original property subject to “**substantial damage**” as a result of a wildfire or natural disaster (RTC Sec. 69.6(d)(14))
 - + The value of residential improvements immediately after damage is **less than 50%** of the value immediately before the wildfire or natural disaster
 - + Must have been principal residence of claimant *on the date the property was damaged* (LTA 2021/026)
 - + Property must be sold *in its damaged state* (LTA 2021/026)

Prop 19: Base Year Value Transfer

Who is eligible?

- + “Substantial damage” (RTC Sec. 69.6(d)(14))
- + **Physical** damage, but specifically includes diminution of value as a result of restricted access caused by the wildfire or natural disaster

Prop 19: Base Year Value Transfer

Who is eligible?

- + Victim of wildfire or natural disaster
 - + Wildfire
 - + Unplanned and unwanted wildland fire, including unauthorized human-caused fires (**Gov't Code Sec. 51177(j)**)
 - + Natural Disaster
 - + As declared by the Governor (fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, volcanic eruption)
- + www.boe.ca.gov/proptaxes/disaster-list.htm

CHRONOLOGICAL LIST OF GOVERNOR-PROCLAIMED DISASTERS FOR PROPERTY TAX PURPOSES (since October 20, 1991)

DATE OF DISASTER	TYPE OF DISASTER	COUNTIES INVOLVED
September 7, 2021	Fire (Cache Fire)	Lake
August 30, 2021	Fire (Caldor Fire)	Alpine, Amador, and Placer
August 17, 2021	Fire (Caldor Fire)	El Dorado
August 10, 2021	Fires (Dixie, McFarland and Monument Fires)	Shasta, Tehama, and Trinity
August 5, 2021	Fires (Antelope and River Fires)	Nevada, Placer, and Siskiyou
July 23, 2021	Fires (Dixie, Fly, and Tamarack Fires)	Alpine, Butte, Lassen, and Plumas
June - July 2021	Fires (Beckwourth Complex and Lava Fires)	Lassen, Plumas, and Siskiyou

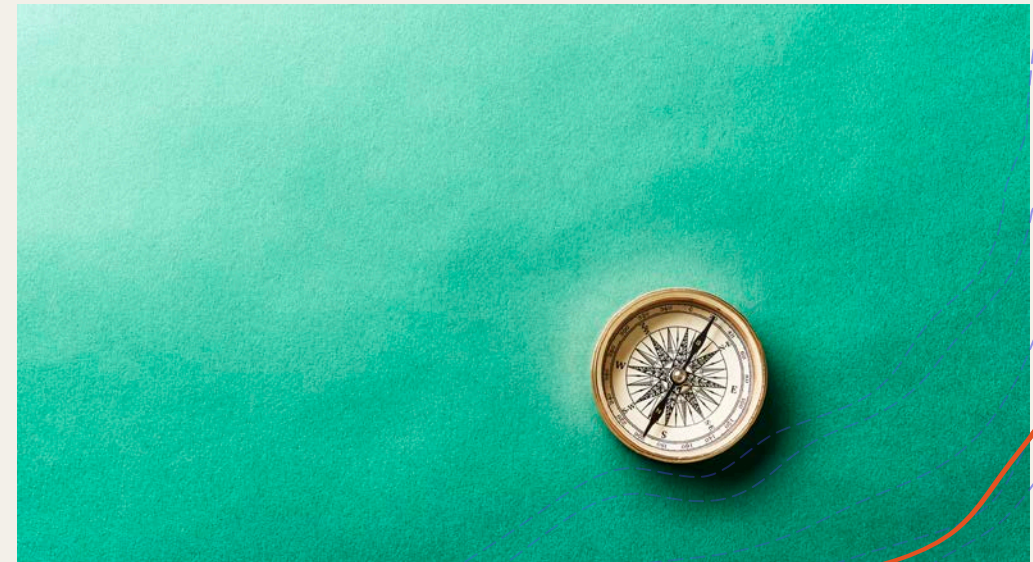
Prop 19: Base Year Value Transfer

How many transfers is a claimant allowed to make?

- + No more than **three transfers** per claimant
 - + Even if the claimant owner has already transferred a base year value under Prop 60/90/110
- + Spouses may make a combined total of **six transfers**
- + Limit does **not** apply to **wildfire/natural disaster** transfers
- + See LTA 2021/019

Prop 19: Base Year Value Transfer

- + History
- + Legal Authority / guidance
- + Effective date
- + Who is eligible?
- + ***What property qualifies?***
- + How is new BYV calculated?
- + Filing the claim



Prop 19: Base Year Value Transfer

What is qualifying “original property” under RTC 69.6?

- + Located in California
- + Within two years of the purchase/construction of the replacement primary residence, original residence is:
 - + Occupied as a principal residence of the claimant, AND
 - + Sold by claimant (must be a change in ownership that subjects property to **100% full cash value reappraisal**)
- + May be part of a multi-unit property (duplex, etc.)

Prop 19: Base Year Value Transfer

EXAMPLE

- + Brother (58) and sister (55) are equal co-owners of a primary residence
- + Sister sells her 50% interest to brother (triggering a reappraisal of the 50% interest) and purchases a new residence in another county
- + ***May sister qualify for BYVT to her new residence (if other requirements are met)?***
- + ***NO!***
- + There was not a 100% change in ownership on the sale of the original property
- + See Proposed Property Tax Rule 462.540, Example 1

Prop 19: Base Year Value Transfer

What qualifies as a “replacement dwelling” under RTC 69.6?

- + Principal Residence
- + Purchased or newly constructed (must be a change in ownership that subjects property to **100% full cash value reappraisal**)
 - + Within two years of the sale of the original property
 - + Within two years of occupancy of original property as a principal residence
- + Anywhere in California
- + No value limitation

Prop 19: Base Year Value Transfer

EXAMPLE

- + Chandler sells original residence for \$515k
- + Chandler and two other persons purchase a replacement dwelling for \$500k as equal co-owners
- + ***May claimant qualify for BYVT to new residence (if other requirements are met)?***
- + **YES!**
- + There was a 100% change in ownership resulting in reappraisals for both the sale and the purchase
- + Only Chandler is considered a claimant even though two other co-owners benefit from BYVT
- + See Proposed Property Tax Rule 462.540, Example 1

Prop 19: Base Year Value Transfer

What qualifies as a “replacement dwelling?” under RTC 69.6?

1. Replacement property must be purchased/constructed within two years of the **sale** of the original property AND
2. Replacement property must be purchased/constructed within two years of the owner’s occupancy of original property as a **principal residence** (except for original property damaged in natural disaster)

+ See LTA 2021/019

Timeline A: Purchase/Construct RD before Sell OP



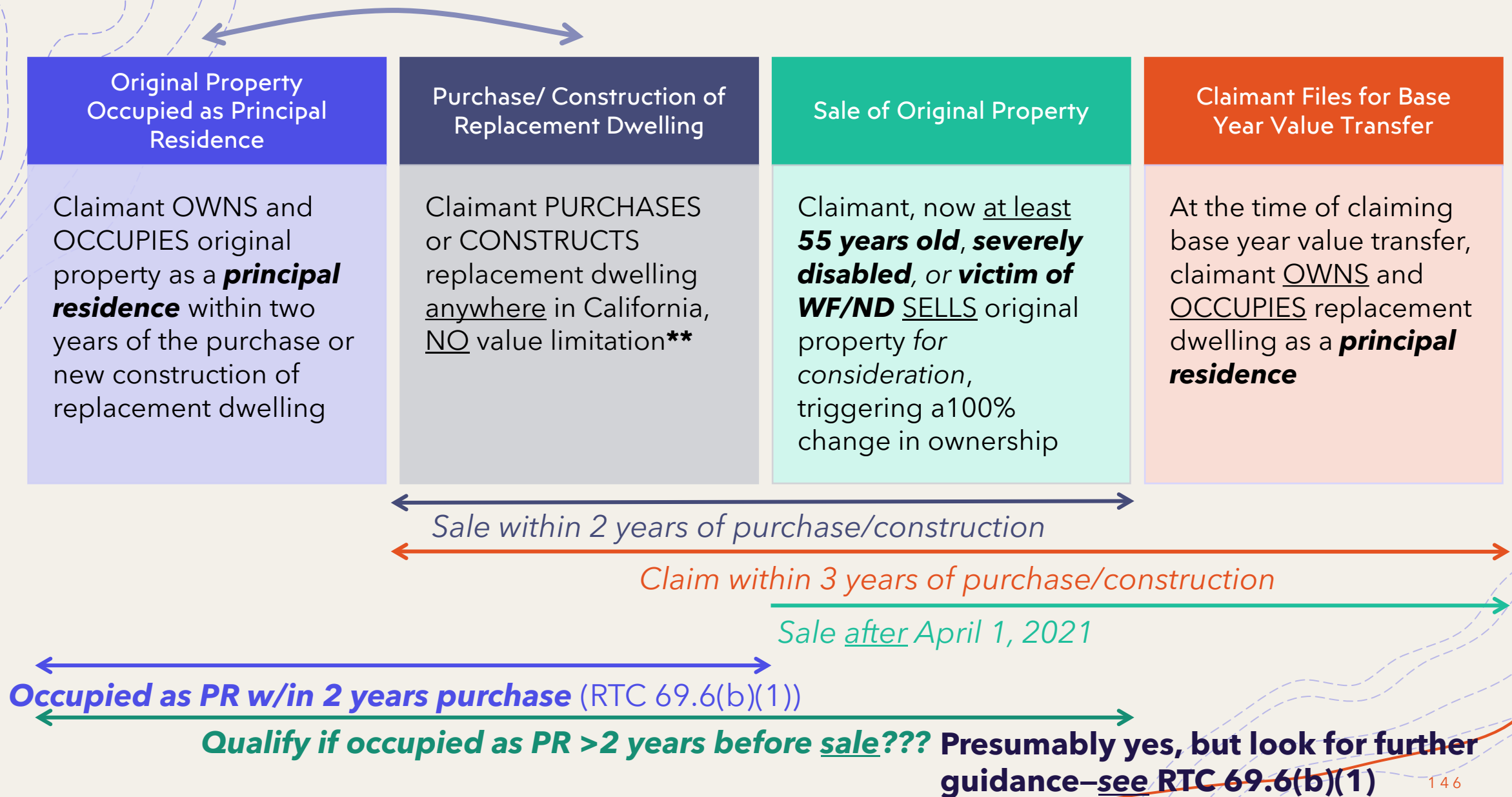
← **Sale within 2 years of purchase/construction** (RTC 69.6(b)(5)) →

← **Claim within 3 years of purchase/construction** (RTC 69.6(c)(1)) →

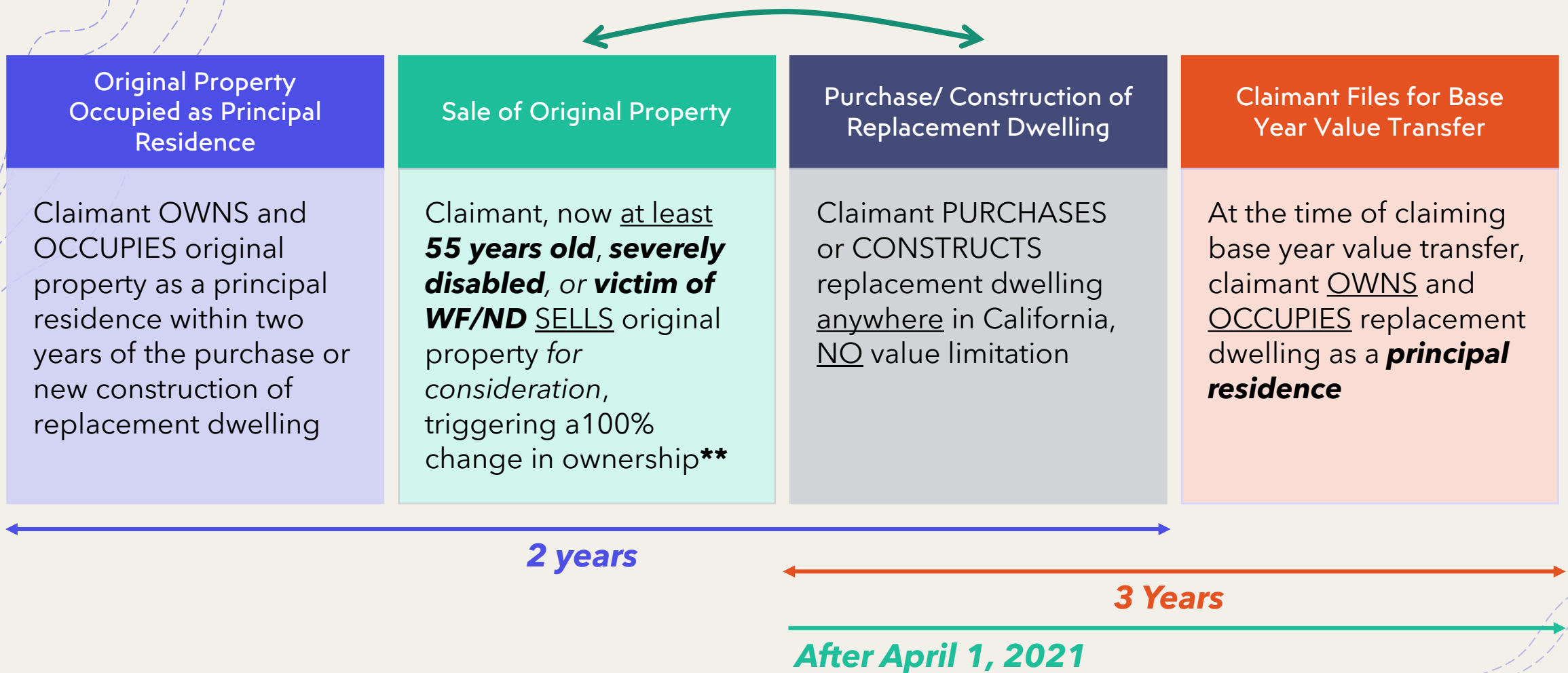
→ **Sale after April 1, 2021** (RTC 69.6(b)(5)(A)) →

****Must pay tax on full cash value of replacement dwelling, then excess taxes refunded or cancelled after taxable value transfer accepted (RTC Sec. 69.6(e)(5))**

Timeline A: Purchase/Construct RD before Sell OP

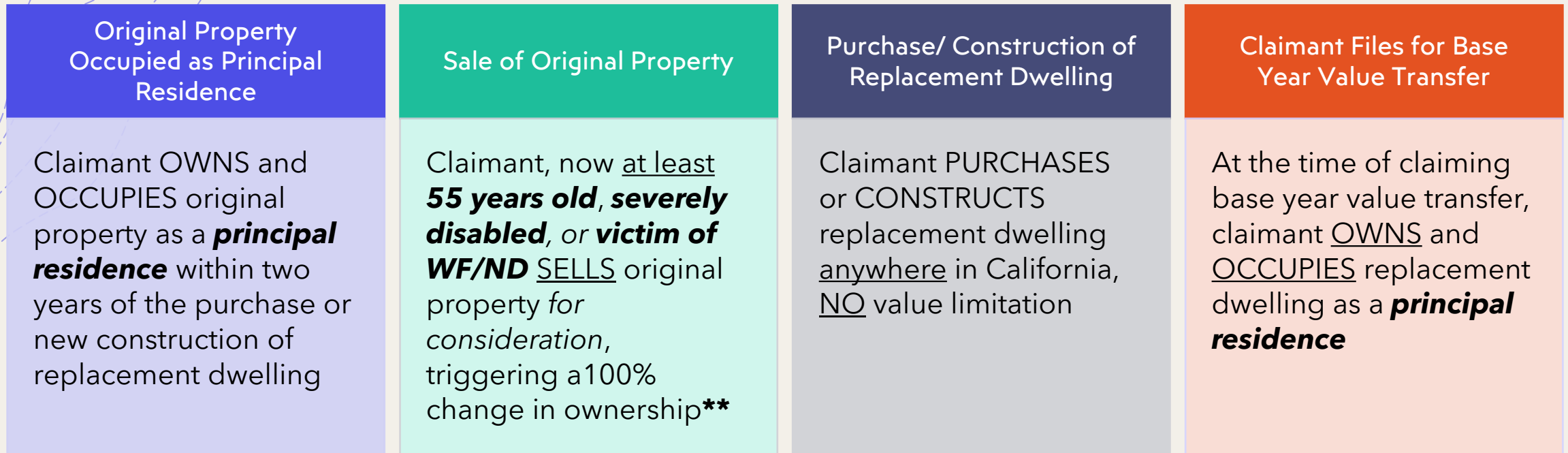


Timeline B: Sell OP before Purchase/Construct RD



Transferred “taxable value” includes *inflation factor adjustments*** under RTC Sec. 110.1(f) for period between sale of original property and purchase/construction of replacement dwelling (RTC Sec. 69.6(e)(4))

Timeline B: Sell OP before Purchase/Construct RD



← Sale **1.95 years** before purchase →

← Occupied as principal residence > **2 years** before purchase →

Does **NOT** qualify for base year value transfer b/c last date of occupancy as PR > 2 years from purchase of replacement (RTC 69.6(b)(1))

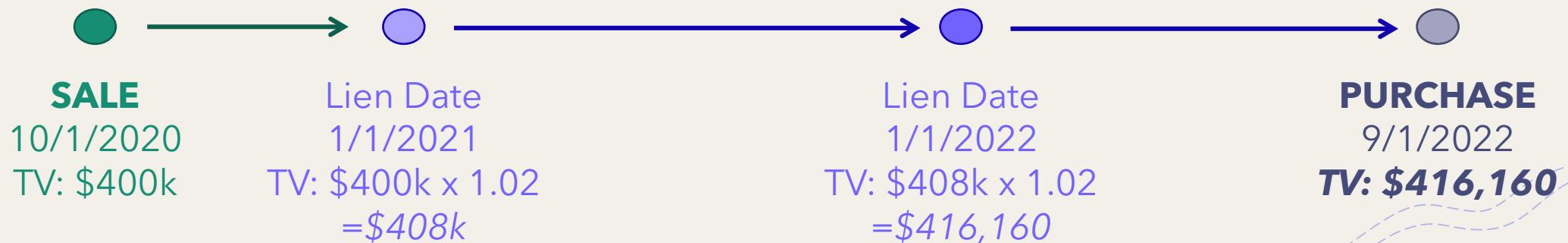
Timeline B: Sell OP before Purchase/Construct RD

Sale of Original Property

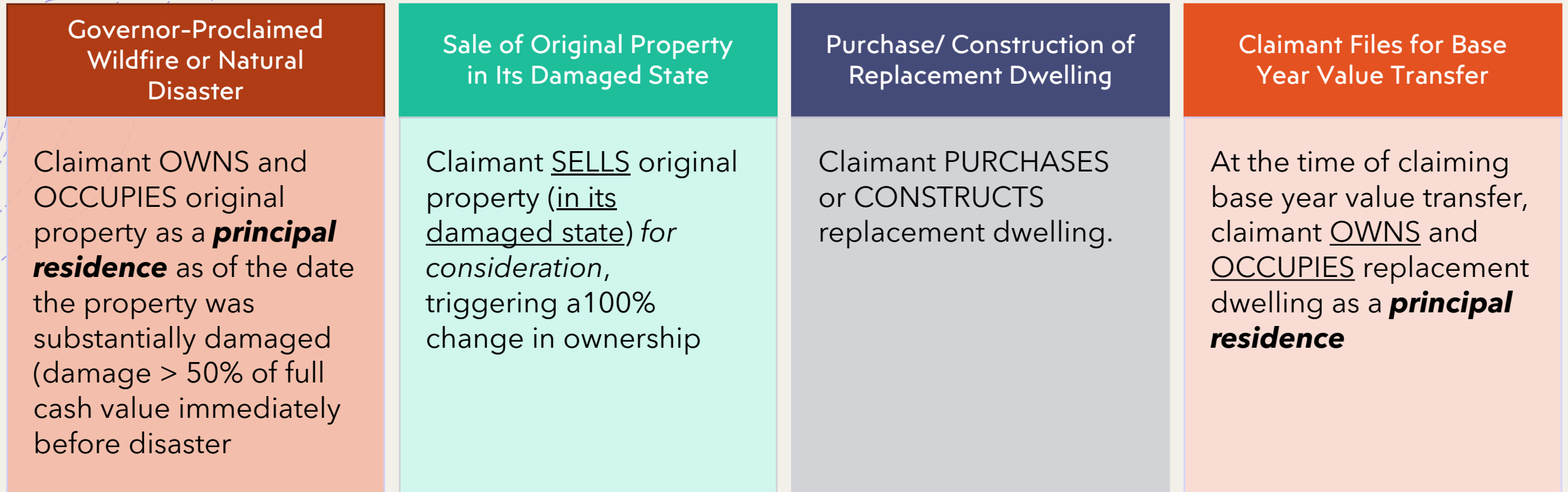
Claimant, now at least **55 years old, severely disabled**, or **victim of WF/ND** SELLS original property for consideration, triggering a 100% change in ownership

Purchase/ Construction of Replacement Dwelling

Claimant PURCHASES or CONSTRUCTS replacement dwelling.



Timeline B: Sell OP before Purchase/Construct RD – NATURAL DISASTER



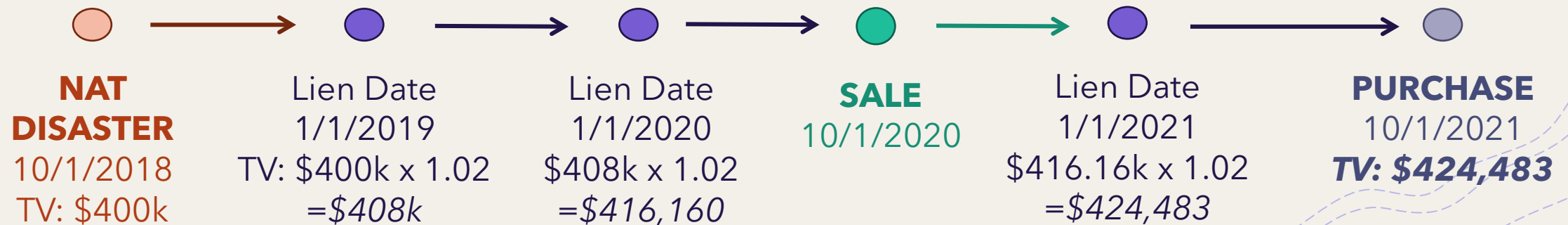
← **MAY BE > 2 YEARS** RTC 69.6 (b)(1), (d)(2); LTA 2021/026 →

← 2 years →

← 3 Years →

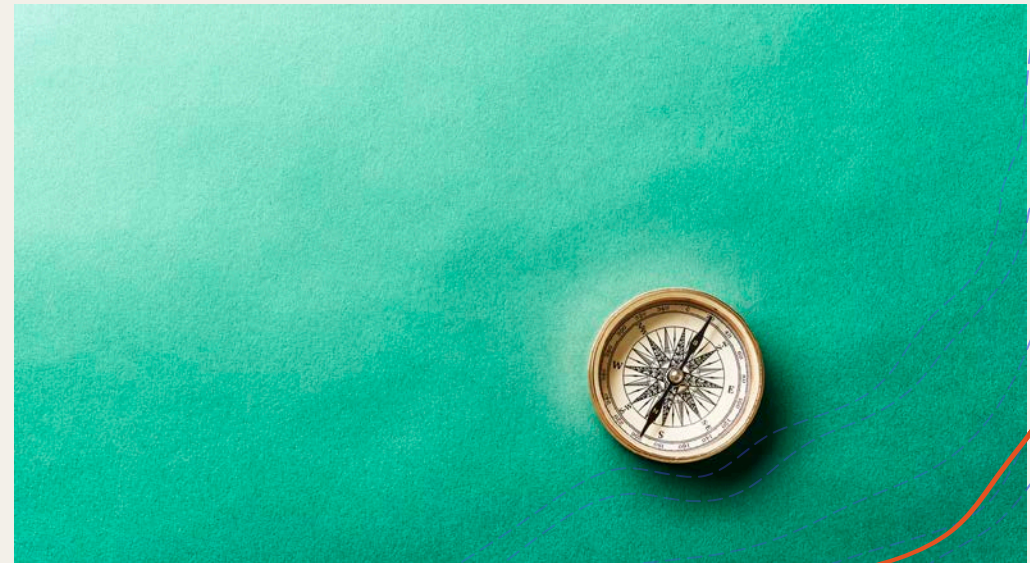
← After April 1, 2021 →

Timeline B: Sell OP before Purchase/Construct RD – NATURAL DISASTER



Prop 19: Base Year Value Transfer

- + History
- + Legal Authority / guidance
- + Effective date
- + Who is eligible?
- + What property qualifies?
- + ***How is new **BYV** calculated?***
- + Filing the claim



Prop 19: Base Year Value Transfer

How is the new base year value calculated?

IF the purchase price (full cash value or “FCV”) of the replacement dwelling is of **equal or lesser value** than the sale price (FCV) of the original property,

THEN the taxable value of the replacement dwelling on the date of purchase/construction **equals** the taxable value of the original property on the date of sale.

Prop 19: Base Year Value Transfer

How is the new base year value calculated?

+ **“Full cash value”** means the new base year value, with inflation adjustments for the period from the date of the sale of the OP to the purchase/ construction of the RD

Prop 19: Base Year Value Transfer

How is the new base year value calculated?

- + **“Equal or lesser value”** means the *full cash value* of the RD does not exceed:
 - + If RD purchased/constructed prior to sale of OP, 100% of the *full cash value of the OP*
 - + If RD purchased/constructed within 1 year of sale of OP, 105% of the *full cash value of the OP*
 - + If RD purchased/constructed within 2nd year of sale of OP, 110% of the *full cash value of the OP*

Prop 19: Base Year Value Transfer

How is the new base year value calculated?

- + **"Taxable value"** means the factored *base year value*,
 - + Under RTC Sec. 69.6(e)(4), the transferred taxable value includes any **inflation factor adjustment** for the period *from the sale* of the original property *until* the **purchase/construction** of the replacement dwelling.

Prop 19: Base Year Value Transfer

How is the new taxable value calculated?

- + **"Taxable value"** means the factored *base year value*,
 - + *IN OTHER WORDS*, the taxable value of the original property is the "full cash value"/"base year value" adjusted for inflation **as if** the original property were held until the date of purchase/construction of the replacement dwelling, rather than the earlier date of sale.

Prop 19: Base Year Value Transfer

How is the new *taxable value* calculated?

IF the purchase price of the replacement dwelling is of **greater value** than the sale price of the original property,

THEN the taxable value of the replacement dwelling on the date of purchase/construction **equals** the taxable value of the original property on the date of sale **PLUS** the differential between the purchase price and sale price.

Prop 19: Base Year Value Transfer

EXAMPLE

- + OCTOBER 2020: Caspar (60) sells original property in San Ramon for \$1,000,000 (\$500,000 BYV)
- + SEPTEMBER 2022: Caspar purchases replacement dwelling in San Diego County for \$1,100,000
- + What is the full cash value of original property on date of purchase (assume max 2% inflation under RTC sec. 110.1(f))?
 - + 2021: \$1,020,000
 - + 2022: \$1,040,400
- + Compare
 - + Full cash value of replacement dwelling: \$1,100,000
 - + **110%** of full cash value of original property: $\$1,040,400 \times 110\% = \$1,144,440$
 - + **\$1,100,000 < \$1,144,440**
 - + FCV of the replacement dwelling is of EQUAL OR LESSER VALUE than the FCV of the original property, so the taxable value transferred is the taxable value of the original property
- + Taxable value transferred (assuming other requirements are met): **\$520,200**
 - + \$500,000 adjusted for inflation under RTC Sec. 110.1(f)—i.e. $\$500,000 \times (1.02)^2$
- + See RTC Sec. 69.6(d)(7)-(8),(13) and RTC Sec. 69.6(e)(1)-(4)

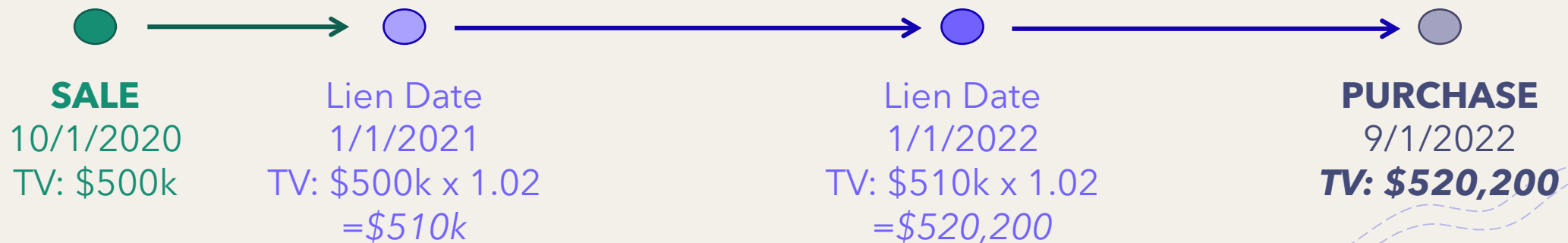
Timeline B: Sell OP before Purchase/Construct RD

Sale of Original Property

Caspar (60) sells original property in San Ramon for \$1,000,000 (\$500,000 BYV)

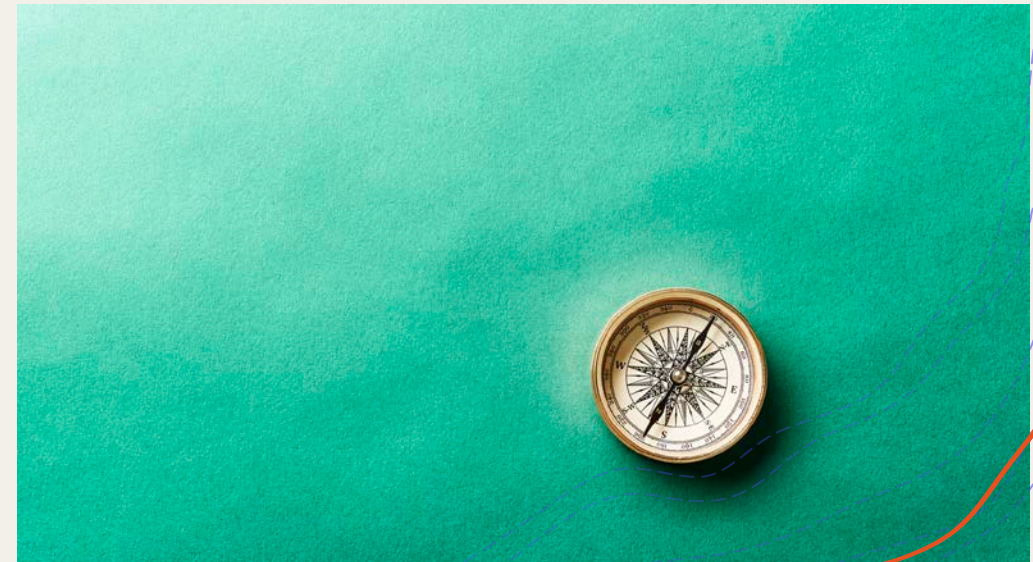
Purchase/ Construction of Replacement Dwelling

Caspar purchases replacement dwelling in San Diego County for \$1,100,000



Prop 19: Base Year Value Transfer

- + History
- + Legal Authority / guidance
- + Effective date
- + Who is eligible?
- + What property qualifies?
- + How is new BYV calculated?
- + ***Filing the claim***



Prop 19: Base Year Value Transfer

Filing the Claim

- +Owner must file the claim within **three years** after the purchase/construction of replacement dwelling, now occupied as the owner's principal residence
- +File in the county of the replacement primary residence

Prop 19: Base Year Value Transfer

Filing the Claim

+If **fail** to file within three years, prospective relief is available, i.e., the base year value transfer may be made effective as of the lien date of the assessment year in which the claim is filed.

Prop 19: Base Year Value Transfer

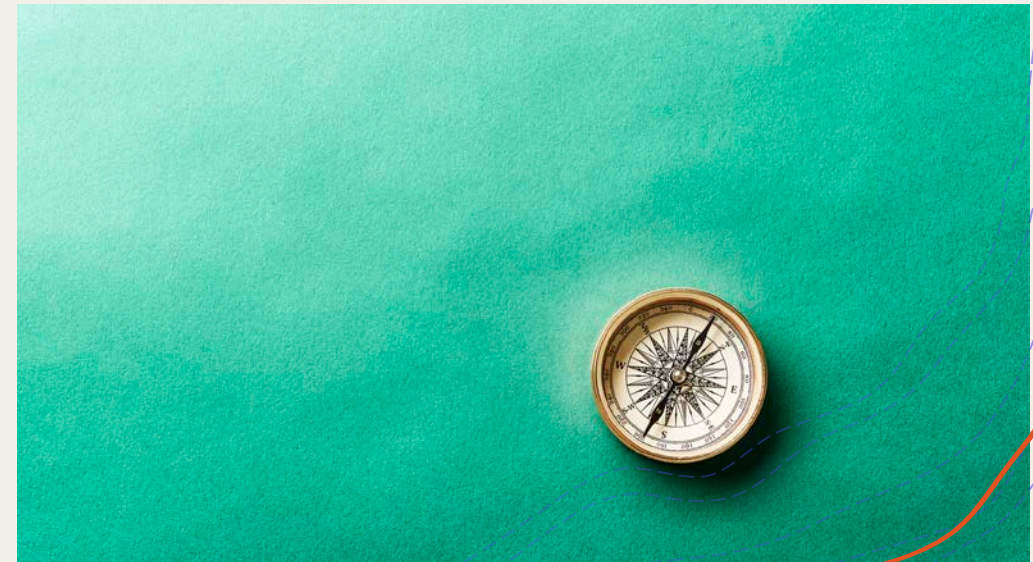
Filing the Claim

+Forms

- +BOE 19-B, D, or V: Claim for Transfer of Base Year Value to Replacement Primary Residence
- +BOE 19-C: Certification of Value by Assessor for Base Year Value Transfer
- +BOE-19-DC: Certificate of Disability
 - +Completed by a physician

Agenda

- + Ballot Initiatives in CA
- + Proposition 13 Framework
- + Proposition 19
 - + Parent-Child Exclusion
 - + Base Year Value Transfers
- + ***Looking Forward***



Looking Forward

Could Prop 19 be reversed?

- + Passed in very close vote 51.11% to 48.89%
- + SB-668
 - + Would reinstate pre Feb 16, 2021 parent-child exclusion
 - + Would require **2/3 vote** in each chamber
 - + Appears to have stalled in senate committee
- + Ballot Initiatives
 - + Would require significant investment to overcome California Association of Realtors, etc.

Looking Forward

Could Prop 19 be reversed?

- + Broad Tax Reform?
 - + Would require **2/3 vote** in each chamber
 - + No broad tax reform has been attempted in California since 2009 bipartisan proposal stalled
 - + Jerry Brown did not believe it was possible; Gov. Newsom stated desire to pursue bipartisan tax reform, but has not acted on it
 - + John Myers, "With a ballot fight looming, Gov. Gavin Newsom suggests dealmaking to revamp California's tax system," Los Angeles Times (online), January 20, 2019, accessed September 29, 2021

Looking Forward

Is Prop 15 dead?

- + Defeated in very close vote 48.03% to 51.97%
- + Supported by California Teachers Association, Chan Zuckerberg Advocacy
- + Opposed by California Business Roundtable, etc.
 - + Are supporters willing to try again?

	Cash Contributions	In-Kind Contributions	Total Contributions
Support	\$66,835,107.03	\$2,373,802.43	\$69,208,909.46
Oppose	\$74,223,557.95	\$573,614.21	\$74,797,172.16

THANK YOU!

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