



# Proposition 19: Homeowner tax savings everywhere in the state

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# PROP 19 OVERVIEW

Homeowners who are 55 or over, severely disabled, or whose homes were destroyed by wildfire or natural disaster, may transfer the taxable value of their primary residence to a replacement primary residence ...

- Anywhere in the state
- Regardless of the location
- Regardless of the value of the replacement primary residence – even if it's greater in value (with an upward adjustment in the tax basis if the replacement property is greater in value)
- Within two years of the sale of the original primary residence
- Up to three times (although there's no limit for those whose houses were destroyed by wildfire or natural disaster)

These rules are in effect on and after April 1, 2021.

Currently, under Props 60 and 90, homeowners who are 55 or over or severely and permanently disabled may transfer the taxable value of their primary residence to a replacement primary residence ...

- One time
- Within the same county (per Prop 60) or
- To another county that accepts intercounty tax basis transfers (per Prop 90) – see below
- To a replacement property of equal or lesser value
- Within two years of the sale of the original primary residence

Prop 19 will create new rules beginning on April 1, 2021.

## **CURRENTLY, THESE 10 COUNTIES ACCEPT INTERCOUNTY TAX TRANSFERS UNDER PROP 90**

As of November 7, 2018, the following ten counties in California have an ordinance enabling the intercounty base year value transfer per Prop 90: Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Tuolumne, Ventura

# KEY DIFFERENCES BETWEEN CURRENT LAW (PROPS 60 AND 90) AND PROP 19

## Proposition 19 permits transfer of tax basis ...

- Anywhere in the state
  - Currently, tax basis transfer is limited to within the same county (under Prop 60) or to one of 10 counties that accepts intercounty tax basis transfers (under Prop 90).
- Regardless of the value of the replacement primary residence – even if the value is greater than the original property
  - Currently, the tax basis can only be transferred to a replacement property of equal or lesser value.
- Up to three times (with no limit for those whose houses were destroyed by wildfire or natural disaster)
  - Currently, the tax basis can only be transferred once.

## PROP. 19 PORTABILITY RULES APPLY ON AND AFTER APRIL 1, 2021? – BOTTOM LINE ADVICE

- A plain reading of Proposition 19 would allow transfer of tax basis to transactions where either the sale or purchase of a primary residence takes place before April 1, 2021, as long as the subsequent sale or purchase takes place within two years and on or after April 1, 2021.
- Alternatively, a conservative interpretation could require that both the sale and purchase must occur on or after April 1, 2021.
- C.A.R. is seeking official clarification of this issue.
- If an agent has a client who wishes to obtain the tax benefits of Prop 19 for a transaction that closes prior to April 1, 2021, the client should be encouraged to seek the advice of a qualified California real estate attorney or tax advisor.
- **The Bottom Line: As always, our advice to agents is to not give legal or tax advice – especially on an issue that is so consequential and presently has no definitive answer.**

# PURCHASING A NEW HOME OF “EQUAL OR LESSER VALUE” – WHAT DOES IT MEAN?

**Currently under Prop 60 and 90**, if a qualified homeowner sells their home and purchases a new home then they can transfer the tax basis if the new home is of “equal or lesser value.” Under current law this means:

- For new properties purchased at 105% the price of the original, if purchased within one year of the sale of the original.
- This applies for new properties purchased at 110% the price of the original, if purchased within the second year of the sale of the original.

## **What will “equal or lesser value” mean under Prop 19?**

- **Answer unclear:** It could mean the above definition which attempts to account for inflation. Or it could mean simply any purchase price of the replacement property which is greater than the original
- Implementing legislation or BOE rule will clarify which definition will apply for Prop 19 transfers.

# CALCULATING THE TAX BASIS OF THE NEW PROPERTY UNDER PROP 19

## How to determine the tax basis of the new property?

**Rule 1:** If the replacement property is of equal or lesser value to the original primary residence, then the taxable value of the replacement property remains the same as that of the original primary residence.

**Rule 2:** If the replacement property is of greater value than the taxable value of the replacement property will be adjusted by adding the difference in sales price (technically, the “full cash value”) to the taxable value of the original primary residence.

Here is a sample calculation of the tax basis for a replacement property with a **greater** value than the original primary residence.

▪ Original primary residence (OPR) taxable value	\$400,000
▪ OPR sold for	\$900,000
▪ Replacement primary residence (RPP) purchase	\$1,000,000
▪ Difference between sale price of OPR and purchase price of RPP is	\$100,000
▪ Taxable value of RPP is \$400,000 plus \$100,000	\$500,000

# NEW RULES ON TRANSFER OF PROPERTY TO CHILDREN AND GRANDCHILDREN

**New Intergenerational Transfer Rules** – that is, transfers of the property tax basis to children and grandchildren.

**Previously**, the following property transfers were exempt from reassessment:

- The principal residence, regardless of its value or use.
- All other property up to \$1M in value.

**Now under Prop 19**, a property is only exempt from reassessment if:

- The property “continues as the family home of the transferee,” or if it’s a family farm.
- The property is being transferred from a parent to child or grandparent to grandchild.
- The transfer is completed within one year.

This component of Prop 19 went into effect on **February 16, 2021**.

# HOW MUCH WILL THE NEW TAXABLE VALUE BE?

## General Rule:

- If a child or grandchild qualifies by continuing to use the home as a primary residence, then the original Taxable Value (TV) of the property for that child/grandchild will remain the same as the TV to the parent, unless the following applies:

## Exception:

- If the assessed value of family home is more than \$1m over the original TV, then the new TV will increase.

For example:

- Assume the assessed value of the family home is \$2m and the original TV is \$500k.
  - Because \$2m is more than \$1m above the original TV, the new TV will increase.
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- If so, the new TV will be the new assessed value minus \$1 m.  
In this case, \$2m minus \$1m equals \$1m, and that is the new TV.