Proposition 19: California Assessors Association Proposed Guidelines

Proposition 19 (Assembly Constitutional Amendment 11) makes several significant changes to the way that Assessors are to administer property tax laws pertaining to base year value transfers, disaster relief, and parent/child and grandparent/grandparent exclusions.

The effective date for the new provisions relating to parent/child and grandparent/grandchild exclusions is February 16, 2021. In addition to the guidelines, we suggest reading the Prop 19 Questions and Answers on the Board of Equalization (BOE) website.

Definition

- Primary residence – Real property where the transferor is eligible for the homeowners' exemption or disabled veteran's exemption, and it becomes the principal residence of the transferee.

- There is no limit to the number of times an eligible transferor may transfer or an eligible transferee may receive a principal residence or residences.

- Family farm – Real property which is:
    - Under cultivation; or
    - Being used for pasture or grazing; or
    - Used to produce any agricultural commodity (defined as "any and all plant and animal products produced in this state for commercial purposes, including, but not limited to, plant products used for producing biofuels, and industrial hemp cultivated in accordance with Division 24 (commencing with Section 81000) of the Food and Agricultural Code"); and is
    - An appraisal unit. An appraisal unit need not be limited by the number of parcels making up the family farm.

- Parents/children/grandparents/grandchildren – Same definitions as under 63.1 (Prop. 58), but transfers may flow in either direction between parents and children (same as Prop. 58) and between grandparents and grandchildren (not just in one direction).

Property Use

- Primary residence
    - Must be principal residence of transferor (transferor must be eligible for a homeowners' or disabled veterans' exemption, but does not need to have filed for an exemption)
    - Must become the principal residence of an eligible transferee within one year of the effective date of the transfer; and
    - Must file for a homeowners' exemption or disabled veterans' exemption within one year of the effective date of transfer.

- If there are multiple transferees, only one must use the property as their principal residence to qualify the property for exclusion.

  Example: Mother passes away on June 15, 2021, leaving her principal residence equally to her two sons, Son 1 and Son 2. Son 1 moves into the property 7 months after his mother passes away, and files for the homeowners' exemption. Three months later Son 1 files for the exclusion. The assessor grants the exclusion

- Family farm

  - A family farm does not need to be principal residence of either the transferor or the transferee.
  - If there are multiple eligible transferees, only one must continue to farm to qualify the property for exclusion.
  - If the transferor leases the property to someone else to farm (i.e. the transferor is not involved in the farming operation himself/herself), the property does not qualify as a family farm, unless the transferor can show "material participation" on their tax return.
  - If, after receiving the exclusion, a transferee leases/rents all or a portion of the farm to an ineligible transferee, the exclusion shall be removed on the farm or portion of the farm that is leased or rented, unless the transferee can show they qualify for "material participation" on their federal tax return.

    Example: Mother passes away on June 15, 2021, leaving her family farm to her two sons, Son 1 and Son 2. Son 1 continues to farm the property after his mother passes away, and timely files any exclusion claim. The assessor grants the exclusion. Three years later, Son 1's job requires him to move to Colorado on October 23, 2025. Before moving, Son 1 deeds a 25% interest to his son (Grandchild 1). Grandchild 1 takes over farming the property on November 1, 2025, and files a claim for exclusion on October 21, 2026. The farm remains eligible for exclusion since Grandchild 1 received interest from his father, while father was still farming the property, and Grandchild 1 began farming the property within one year. However, if Son 1 had not transferred any interest to Grandchild 1, Grandchild 1 would not be an eligible transferee, and the exclusion for the family farm would be removed when Son 1 stopped farming the property.

Exclusion Removal

- Moving out of a property (if a principal residence) or no longer farming (if a family farm) results in the exclusion being removed. Removing the exclusion is not subject to supplemental assessment. Instead, the property should receive the factored base year that applies had the family home or family farm not qualified for exclusion at the time of purchase or transfer. The value should be factored forward to the year the exclusion is removed, subject to any changes for new construction and/or changes in ownership, and the value enrolled on the lien date following the removal of the exclusion.

Calculations

- The new base year value of the family home or family farm shall be the sum of both the following:
    - (1) The taxable value of the family home or family farm as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date the principal residence or family farm is purchased or transferred to the transferee.
    - (2) The applicable of the following amounts:
        - (A) If the fair market value, as defined in subdivision (a) of Section 110, of the family home or family farm upon purchase by, or transfer to, the transferee is less than the sum of the taxable value described in paragraph (1) plus one million dollars ($1,000,000), then zero dollars ($0).
        - (B) If the fair market value, as defined in subdivision (a) of Section 110, of the family home or family farm upon purchase by, or transfer to, the transferee is equal to or more than the sum of the taxable value described in paragraph (1) plus one million dollars ($1,000,000), an amount equal to the fair market value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the taxable value described in paragraph (1) and one million dollars ($1,000,000).

Example 1: A family home has a factored base year value (FBYV) of $300,000 and a fair market value of $1,200,000. The excluded amount is $300,000 + $1,000,000 = $1,300,000. The market value ($1,200,000) is less than the excluded value ($1,300,000). The transferee's base year value remains $300,000.

Example 2: A family home has a factored base year value (FBYV) of $300,000 and a fair market value of $1,500,000. The excluded amount is $300,000 + $1,000,000 = $1,300,000. The difference between the market value and the excluded value is $200,000. [$1,500,000 - $1,300,000 = $200,000] The transferee's adjusted base year value is $500,000 (FBYV $300,000 + difference of $200,000). The $200,000 increase is subject to supplemental assessment.

Example 3: A family home has a factored base year value (FBYV) of $300,000 and a fair market value of $1,200,000. The transfer is for a 60% interest. The excluded amount for the property as a whole is $300,000 + $1,000,000 = $1,300,000. The transferred interest is 60%, or $780,000 [60% of $1,300,000] Compare $780,000 to $720,000 (60% of $1,200,000] The market value ($720,000) is less than the excluded value ($780,000). There is no change to the base year value, and it remains $300,000.

Example 4: A family home has a factored base year value (FBYV) of $300,000 and a fair market value of $1,500,000. The transfer is for a 60% interest. The excluded amount for the property as a whole is $300,000 + $1,000,000 = $1,300,000. The transferred interest is 60%, or $780,000 [60% of $1,300,000] Compare $780,000 to $900,000 (60% of $1,500,000] The difference between the market value and the excluded value is $120,000. [$900,000 - $780,000 = $120,000] The transferee's 60% adjusted base year value is $300,000 (60% of FBYV $300,000 = $180,000 + difference of $120,000). $300,000 + $120,000 (40% of FBYV $300,000 that did not transfer = $120,000), and the new adjusted base year value of the property is $420,000. The $120,000 increase is subject to supplemental assessment.

Example 5: A family farm appraisal unit consists of two assessor parcel numbers (APNs). One APN has a FBYV of $150,000 and the other APN has a FBYV of $250,000. The farm as an appraisal unit has a fair market value of $1,400,000. The excluded amount is ($150,000 + $250,000) + $1,000,000 = $1,400,000. The market value ($1,400,000) is the same as the excluded value ($1,400,000). The transferee's base year value remains $400,000 ($150,000 and $250,000). There is no change in ownership.

Example 6: A family farm appraisal unit consists of two APNs. One APN has a FBYV of $150,000 and the other APN has a FBYV of $250,000. The farm as an appraisal unit has a fair market value of $2,000,000. The excluded amount is ($150,000 + $250,000) + $1,000,000 = $1,400,000. The market value ($2,000,000) is more than the excluded value ($1,400,000). The difference is $600,000. The fair market value is allocated $800,000 (40%) to the first APN and $1,200,000 (60%) to the second APN. The transferee's new base year value on the first APN becomes $390,000 [$150,000 + (40% of $600,000)] and the new base year value on the second APN becomes $610,000 [$250,000 + (60% of $600,000)]. The increase on each APN is subject to supplemental assessment.

Filing dates

- For a principal residence, an eligible transferee must file and qualify for a homeowners' exemption or a disabled veterans' exemption within one year of the transfer date.

- The filing dates and requirements for the exclusion claim are the same as under R&T 63.1, except: 1) the filing must be before a transfer to a third party; **and** 2) the filing must be before an eligible transferee no longer uses the property for eligible purposes. New claim forms created by the BOE in coordination with the CAA Forms Committee will be used for all transfers with an effective date on and after February 16, 2021. (See LTA 2021/007)

- If a transfer has an effective date on or before February 15, 2021, the filing dates are as specified in R&T 63.1. There is no requirement that paperwork be filed before February 16, 2021. This includes deeds recorded to distribute property pursuant to a death that occurred on or before February 15, 2021.

  Example: Mom owned property in her trust, and passed away on January 20, 2021. The trust leaves the trust assets equally to her two children. The children file timely for the parent/child exclusion under R&T 63.1, but have trouble deciding how they want to distribute the assets. A deed to distribute the property records on July 28, 2023. A distribution is not a change in ownership. The change in ownership is effective on Mom's date of death. Recording the distribution deed after February 15, 2021 does not disqualify the property from exclusion under R&T 63.1. (Prop. 19 does not apply in this example.)

Appeal notes

- A local appeals board may hear matters regarding a change in ownership, assessment valuation, exclusion, and classification of property.
- An appeal of a denial of the homeowner's or disabled veteran's exemption must be filed in superior court after the denial of a claim for refund with the county. The local appeals board does not have the authority to hear a case regarding an exemption.

Report for the Auditor

- Report should include information that allows the Auditor to determine the amount of increase in value (i.e. revenue) for each local agency affected due to the changes under Article 2.1(c).
- Report should include:
    - Value change for each property eligible for exclusion, but where the market value results in an increase in the factored base year value.
    - Value change for each property that *would have been* eligible for a Prop. 58 exclusion, but is not eligible for exclusion under Prop. 19.