

February 1, 2022

SB 539 clarifies the law re exemptions from reassessment as put forth in Prop 19 which allows a homeowner to transfer their tax basis anywhere in the state even if the property is of greater value (with an adjustment upward in such case). Various issues regarding the transfer of a tax basis of a principal residence for seniors 55 or over, the severely disabled and victims of natural disaster, as well as the transfer of property or family farms from parent/grandparent to child/grandchild, are addressed and clarified. Most importantly, the purchase and sale of a homeowner's principal residence may qualify for Prop 19 tax savings even if one leg of the transaction took place prior to April 1, 2021.

With the passage of Proposition 19, a homeowner who is 55 years of age or, severely disabled or whose home has been substantially damaged 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 value of the replacement primary residence (with upward adjustments in the tax basis if "greater" in value)
- Within two years of the sale
- Up to three times (but without limitation for those whose houses were destroyed by fire)
- Proposition 19 supersedes the old rules which limited this exemption to the sale and purchase of a principal residence within the same county (Proposition 60) or between certain counties (Proposition 90) -- but only if the replacement property was of "equal or lesser value" and only one time.

SB 539 clarifies the implementation of Prop 19 including:

- A sale or purchase of a property may qualify for Prop 19 tax savings even if that transaction closed prior to April 1, 2021, as long as the subsequent sale or purchase takes place within two years and on or after April 1, 2021.
- Accessory Dwelling Units do not count as multiunit dwellings as long as the homeowner occupies one of the units as a primary residence.
- A previous transfer of a homeowner's tax basis under Prop 60/90 does not count as one of the three transfers under Prop 19.
- If the full cash value of the replacement property is of equal or lesser value than the original, then the tax basis of the original transfers. "Equal or lesser" value of the replacement dwelling can be 105% of the full cash value of the original if the replacement property is purchased within one year after sale of the original or 110% if purchased within two years after sale of the original.
- If the replacement property is of "greater value" to the original property, then the taxable value of the replacement property is calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement property to the taxable value of the original property.

In addition to the changes to portability rules, SB 539 has clarified Prop 19 regarding intergenerational transfers and when a property transferred from parent/grandparent to child/grandchild is exempt from reassessment:

- The property is eligible for the exemptions when it "continues as the family home of the transferee," meaning that only one of the heirs need to actually occupy the family home to qualify for the exemption, even if there is more than one heir on title.
- The property also may qualify if it's a family farm. This exemption applies to any legal parcel that constitutes a family farm.
- The homeowners' exemption (or disabled veterans' exemption) must be filed at time of transfer or within in one year to be eligible for the exemption.
- It is still necessary to file a claim for exemption within three years of the date of purchase (or prior to subsequent transferee, or if the child no longer occupies the property, whichever is earlier).
- The new tax basis represents a discount of \$1 million dollars off the new assessed value of the property (but not less than its original taxable value).
- The \$1 million dollar exemption also applies to family farms. This exclusion applies separately to the transfer of each legal parcel that makes up a family farm.

Senate Bill 539 is codified as Revenue and Tax Code §§ 63.2 and 69.6.

See also, <https://www.car.org/riskmanagement/qa/property-tax-folder/Prop19ImplementingLegislation>