

# Kimball, Tirey & St. John LLP

## Proposition 19 and California Real Property Taxes

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Proposition 19 passed in 2019, amending Article XIII (A) of the California Constitution. As part of the measure, children who inherit their parents' houses no longer receive a property tax break if they sell real property, intend to keep it as a second home, or rent it out. The measure had a very serious effect on the traditional parent-child exemption from reassessment under Prop 13. Previously, transfers of the principal residence of a parent and up to \$1 million of assessed valuation of other property passed to children without being reassessed for local County property tax purposes, thereby preserving the benefits of Prop 13 for heirs and trust beneficiaries.

That has now changed dramatically. Now, the exemption from property tax reassessment for property inherited from a parent (or grandparent if the parents are deceased) only applies if the child becomes the owner/occupant of the real property, and files a homeowner's exemption application at the time of the transfer or within one year.

The other part of the new measure provides that older homeowners now receive a property tax benefit when they buy a more expensive home anywhere in the state, and they can use that tax break up to three times. Homeowners with disabilities are also able to do that, as well as victims of wildfires and other natural disasters whose homes are damaged.

Eliminating the former broad parent-child Prop 13 exemption from reassessment was a major change in the law, and has affected the situation of many children inheriting California real property. The cutoff date was February 16, 2021, meaning that the old Prop 13 law only applies to deaths before that date. Parent-child transfers for deaths before that date should still qualify for the old parent-child exclusion from reassessment, if all other conditions are met, even if the actual deed transfers are done after that. Deaths after February 16, 2021 fall under the new Prop 19 law, and will not generally allow parent-child exclusions from reassessment, except in the very limited "primary residence transfer" situations.

This new law has nothing to do with the capital gains tax basis, which is a matter of Federal income tax law, and is not affected in any way by this new legislation. It also does not affect non-California real property. It affects local property taxes under Prop 13 for California real property only. The new measure also means that real property that is not going to be occupied by a child will be reassessed for property tax purposes retroactive to the date of death, even if it is sold during trust or probate administration, so there will be increased property taxes due for the period between the date of death and the time of sale. That has not been the case up until now for most situations where children inherit and sell real property during trust or probate administration. In those cases, what now happens is that the County goes back and recalculates the increased property tax from the date of death, and later sends out a "supplemental bill" for the period of time from the date of death to the date of sale. The bill for that does not come for many months, so trustees and heirs should anticipate having to pay supplemental taxes starting on the date of death, even if property has been sold.

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- *Trust administration and distribution of estate assets*
- *Probate and non-probate administration*
- *Representation in probate, trust, guardianship and conservatorship matters*

*For additional information or assistance, contact Charles Scott or Leanne Maestre at (800) 574-5587 or [estateplanning@kts-law.com](mailto:estateplanning@kts-law.com).*

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