Clerk – Recorder – Assessor Department

Proposition 19 & Intergenerational Transfers

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Discussion

- Proposition 13 Basics
  - Parent-Child Transfers
- Proposition 19 Basics
  - Base Year Transfers
  - Intergenerational Transfers
- Trusts
- Common Issues
- Office Timelines

Proposition 13 Basics

- Established by voters in 1978
  - Rolled back assessed value to the 1975 roll value
  - Established 'Base Year Value'
  - Set tax rate at 1%
- Property is reassessed upon change in ownership or new construction
- Reassessed at market value at time of event
  - Not necessarily sales prices, especially for off-market transactions
- Assessment goes up annually
  - CPI or 2%, whichever is lower

Changes in Ownership

- Preliminary Change in Ownership (PCOR)
  - Filed with documents transferring title
  - $20 penalty applies if not filed at time of recording
  - If PCOR is not filed, a Change in Ownership Statement (COS) is sent
- Change of Ownership Statement
  - Must file within 90 days of Assessor's written request
  - Penalty may apply if not filed timely
- Change in Ownership Statement Death of Real Property Owner
  - Must file 150 days from date of death **OR**
  - At time of inventory & appraisal if going through probate
  - Penalty may apply if not filed timely
  - Change of ownership is date of death, not date of distribution
- Proposition 19
  - If death occurred prior to February 16, 2021, old laws still apply
- Questions?
  - EstateDesk@sonomacounty.gov

Parent – Child Transfers (pre-Prop 19)

- Prop 58 – Parent-Child (11/6/1986 to 2/15/2021)
  - Transfers of primary residences (no limit)
  - Transfers of the first $1 million of assessed value of real property other than the primary residences
- Prop 193 – Grandparent-Grandchild (3/27/1996 to 2/15/2021)
  - Same transfer provisions as parent-child
  - Parent(s) of grandchild, who qualifies as child(ren) of grandparent, must be deceased on date of transfer
- If exempt, property was not reassessed upon eligible transfer and completion of applicable claim form

Proposition 19

- Passed by voters in November 2020 General Election
  - Amended the CA Constitution
- Changes provisions for:
  - Base Year Value Transfers
    - Effective April 1, 2021
    - 55+ or severely disabled
    - Disaster Relief
  - Intergenerational Transfer Exclusion
    - Effective February 16, 2021
    - Previously called Parent – Child / Grandparent – Grandchild Transfers

Proposition 19 Basics – Base Year Transfer

- Base Year Transfer
  - 55 years of age or older when original property is sold
  - Replacement property must be principal residence and eligible for a Homeowner's Exemption
  - Replacement must be purchased or newly constructed within 2 years (before or after) the sale of the original property
  - Located anywhere in California
  - Can be used 3 times

Proposition 19 Basics – Base Year Transfer

- Base Year Transfer
  - Still responsible for paying current taxes until Prop 19 application is processed
  - If date of replacement property purchase is within 1 year after the original sale, the amount of the original property assessed value credit will increase by 5%
  - If date of replacement property purchase is between 1 year and 2 years after the original sale, the amount of the original property assessed value credit will increase by 10%

Proposition 19 Basics – Base Year Transfer

- Base Year Transfer – Example (downsizing)
  - Original property assessed value - $500,000
  - Original property market value - $2,000,000
  - Replacement property market value - $1,000,000
  - Replacement property market value is less than or equal to the original property market value
  - Original property assessed value will be enrolled as new base year for replacement property
  - $500,000 (savings of $500,000)

Proposition 19 Basics – Base Year Transfer

- Base Year Transfer – Example (increasing value)
  - Original property assessed value - $500,000
  - Original property market value - $1,000,000
  - Replacement property market value - $2,000,000
  - Replacement property market value <u>exceeds</u> the original property market value
  - Difference between market values will be added to the original assessed value
  - $2,000,000 - $1,000,000 = $1,000,000 (difference) + $500,000 (original AV) =
    $1,500,000 new assessed base year value (savings of $500,000)

Proposition 19 Basics – Intergenerational

- Intergenerational Transfer
  - Family home that is the principal residence of both transferor and transferee
    - Move in and file for Homeowner’s Exemption within 1 year of transfer
  - Family farm must continue as a family farm of the transferee
  - Value limit of current taxable value plus $1,000,000 (adjusted every other year)
  - Only eligible while principal residence
    - If you move out, assessed value is readjusted to the factored base year value that it would have been had you not been eligible for exclusion
  - Eliminates exclusion for all other types of real property transfers
    - Second homes, commercial properties, etc.
  - Property cannot be owned by an LLC

Proposition 19 Basics – Intergenerational

- Intergenerational Transfer Timelines
  - Move onto property as primary residence within 1 year
  - File Homeowner's Exemption within 1 year
    - If not filed within 1 year, but moved onto property within 1 year, eligible for prospective relief only
  - File Prop 19 claim form within 3 years
    - If not filed within 3 years, but moved onto property within 1 year, eligible for prospective relief only
  - Must continue using as principal residence
    - Will lose exclusion on next January 1 if no longer principal residence

Proposition 19 Basics – Intergenerational

- Intergenerational Transfer - Example
  - Parent owns a property with a P13 base year value of $500,000
  - Property is transferred to child
    - Child completes and submits Prop 19 claim form and Homeowner’s Exemption
  - Market value of the property is $2,000,000
  - Market value less the P13 + $1,000,000 exclusion would be the excess value added to the parents P13 value to calculate new P13 value
  - $2,000,000 (market value) – [$500,000 (parent P13) + $1,000,000] = $500,000 (excess value) + $500,000 (parent P13) = $1,000,000 new assessed value (savings of $1,000,000)

Trusts

- Property not generally reassessed when it goes into trust
  - Except when severing joint tenancy
- May request copy of trust when needed to determine beneficiaries and reappraisability
  - If child has present beneficial interest, and does not move in within a year, will lose exclusion
- Trust generally becomes irrevocable upon date of death
  - Date of death is event/transfer date for exclusion, not filing of Affidavit of Death
- Non-prorata clause
  - Request equalization sheet upon distribution
  - Anything above an equal share would be subject to reappraisal, for that % only

Common Issues

- Assessor
  - Mailing address can only be updated by the owner after the sale
  - Exemptions / exclusions must be applied for after the sale
    - Cannot get a Prop 19 Exclusion or Homeowner’s Exemption by filling out the PCOR
    - Have property owner fill out forms ASAP and send in
  - There will be a supplemental bill
    - It is generally not paid by impound or escrow
  - Prop 19 is state law
    - We cannot make exceptions for special circumstances or when timelines are not met
  - Date of transfer for exclusion is based on date of death or when revocable trust becomes irrevocable, not date of transfer/recording

Office Timelines

- Recordings are same day
  - Index within 2 days
- Ownership Unit is 3 months behind recordings
  - Perfect world would be about 6 weeks
- Real Property Unit has a backlog
  - Catching up, and focusing on current work to avoid future backlogs
  - Perfect world is about 6 months behind transfer date

Resources

- County Websites
  - sonomacounty.ca.gov/clerk-recorder
    - Grantor / Grantee Index available 24/7
  - sonomacounty.ca.gov/assessor
    - Forms (like Homeowners Exemption and Prop 19 Claim Form)
    - References and codes
    - Prop 19 calculator (not for partial interest transfers)
- Board of Equalization
  - boe.ca.gov
  - Taxpayer Rights Advocate - boe.ca.gov/tra

Contact Information / Questions?

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