



Property Tax Exclusions: Propositions 58 & 193

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HOW DO I...?

PRESERVE MY PROPOSITION 13 BASE YEAR VALUE FOR MY CHILDREN OR GRANDCHILDREN

With the passage of Proposition 13 in June 1978, base year values were established for all properties in California. For people who owned property on March 1 1975, the base year was established as of that date. Subsequent base years were established whenever property changed ownership or there was new construction. As time went on and property values increased, base year values established in later years were substantially higher than earlier base year values. People who bought or built property understood that their taxes would be higher than the prior owner's taxes. However, children or grandchildren who inherited real property from their parents/grandparents would also see the taxes double or triple on the inherited property because, by law, this was a change in ownership. Therefore, their parents'/grandparents' lower base year value disappeared. In order to encourage continuing family ownership of property, California voters passed Proposition 58 in November 1986 and Proposition 193 in March 1996.

Propositions 58 & 193 legal reference may be found in the Revenue & Taxation Code Section 63.1. Below you will find the eligibility requirements of Section 63.1:

1. Transfers of real property between parents and children, and between children and parents are excluded from reassessment.
Transfers of real property from grandparents to grandchildren are excluded from reassessment. Transfers from grandchildren to grandparents, however, are **NOT** excluded from reassessment. To qualify, all the parents of that grandchild must be deceased as of the date of purchase or transfer.
2. The seller's or decedent's principal residence is totally excluded from reassessment. In addition, \$1,000,000 of the seller's or decedent's other real property is also excluded. There is a qualification to this rule under Prop 193. If the grandchild had received property in the past that was excludable under Section 63.1 of the R & T Code as a principal residence, any principal residence that the grandchild receives from the grandparent is considered "other real property" that is subject to the \$1,000,000 limitation.
3. There is no value limit for excluding the seller's or decedent's principal residence from reassessment. A Homeowners' Exemption or Disabled Veterans' Exemption must have been granted to the seller or decedent. This residence need not be the principal residence of the person who acquires the property.
4. The \$1,000,000 exclusion, for real property other than the seller's or decedent's principal residence, applies to the assessed value of property immediately before transfer. In other words, real property other than the principal residence, with an assessed value up to \$1,000,000 is excluded from reassessment. The sales price or actual "current market value" does not affect the \$1,000,000 limit. The \$1,000,000 exclusion that is available to grandchildren for property other than a principal residence received from their grandparents is the same \$1,000,000 exclusion that they have remaining available from their parents under Proposition 58.

5. The *total* value of property (or properties) that a parent may transfer to all children without reassessment is \$1,000,000 of assessed value, for property other than the principal residence.
This limit is cumulative over time. After property (or properties) with \$1,000,000 of assessed value is transferred without reassessment, all future transfers will be reassessed (except the transfer of the principal residence if it has not already been transferred).
The \$1,000,000 limit applies only to transfers of properties within the State of California. Transfers of properties in other states are not included in establishing the \$1,000,000 limit.
6. The \$1,000,000 exclusion is a limit for each parent separately. Community property of married parents would have a \$2,000,000 limit. Proposition 193 specifies that a grandchild can have excluded only \$1,000,000 of property transferred from his or her father *AND* his parents (paternal grandparents) and \$1,000,000 of property transferred from his or her mother *AND* her parents (maternal grandparents).
7. Transfers by sale, gift, devise or inheritance qualify for the exclusion.
8. Transfers between parents and children as individuals, from grandparents to grandchildren as individuals, between joint tenants, from trusts to individuals, or from individuals to trusts may qualify for the exclusion.
Transfers of ownership interests in legal entities *do not qualify for the exclusion*. Transfers through the medium of a trust, however, may qualify for the exclusion.
9. Currently, the person who acquires the property must file the claim within three years of the date of transfer, but before transfer to a third party; or within six months after the date of mailing of a Notice of Assessed Value Change, issued as a result of the transfer of property for which the claim is filed, *whichever is later*. There are limited exceptions to these deadlines under new legislation (Senate Bill 542) which affects 1998-99 fiscal year taxes and thereafter. The property, however, must not have transferred to a third party.

HOW DO THESE PROPOSITIONS WORK?

Under Proposition 58, if the parent or child who acquires the property files a claim that is approved by the Assessor, the reassessment will be excluded. Under Proposition 193, if the grandchild who acquires the property files a claim that is approved by the Assessor, the reassessment will be excluded. If the property was already reassessed, the reassessment will be reversed. In these situations, a corrected tax bill will be issued, and/or a refund will be processed.

WHO ARE CONSIDERED CHILDREN?

1. Any child born of the parent(s).
2. Any stepchild of the parent(s) and the spouse of that stepchild while the relationship of stepparent and stepchild exists. The relationship exists until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.
3. Any son-in-law or daughter-in-law of the parent(s). The relationship of parent and son-in-law or daughter-in-law exists until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.
4. Any statutorily adopted child who was adopted before the age of 18.

WHO ARE CONSIDERED GRANDCHILDREN?

Under Proposition 193 the same relationship requirements for children apply to grandchildren, step-

grandchildren and grandchildren-in-law. The parents of the grandchild(ren) who would qualify for a Proposition 58 exclusion from the grandparents must be deceased.

WHEN ARE THESE PROPOSITIONS EFFECTIVE ?

- ❖ Proposition 58 applies to transfers occurring on or after November 6, 1986.
- ❖ Proposition 193 applies to transfers occurring on or after March 27, 1996.
- ❖ Ordinarily, the claim must be filed within three years of the date of transfer, or date of death, but before transfer to a third party. However, the claim will also be considered timely if it is filed within six months after the mailing of the Notice of Assessed Value Change.
- ❖ New legislation effective January 1, 1998 (Senate Bill 542), allows claims to be filed after the above deadlines, subject to certain conditions. The property must not have transferred to a third party. In addition, the exclusion may only be applied to future tax years. It cannot be applied retroactively back to the date of transfer.

You must file a claim with the Assessor who will then determine if the transaction qualifies. The claim forms are available at any of our offices in Santa Barbara, Santa Maria, and Lompoc or by mail. Please contact one of our offices for assistance.

FOR PUBLIC SERVICE, CALL (805) 568-2550

SI DESEA AYUDA EN ESPAÑOL, LLAME AL NÚMERO (805) 568-2550

COMMONLY ASKED QUESTIONS & ANSWERS

Q. A brother and sister inherit their parent's family home. This inheritance to the children was excluded from reassessment once the Parent-Child Exclusion (Proposition 58) was approved. The brother decides to gift his portion of the property to his sister. Can the brother's gift to his sister receive a Proposition 58 or 193 Exclusion?

A. No. The law does not allow an exclusion between siblings. The brother's portion of the property would be appraised for the change in ownership to his sister.

Q. Are transfers from grandchildren to grandparents excluded from reassessment by Proposition 193?

A. No. Proposition 193 only provides a 'one-way' exclusion for transfers from the grandparents to the grandchildren.

Q. I just inherited the old family home, but I don't really want to move back to it. Do I have to make it my principal residence to qualify for the Proposition 58 exclusion?

A. No.

Q. Can a transfer to or from a legal entity (corporation, partnership, etc.) be excluded by Proposition 58 or Proposition 193?

A. No.

Q. I am thinking of giving several properties to my children. Can I decide which child gets the exclusion?

A. Probably, as long as you separately transfer each property to each child. Remember that the first child who acquires property, and is eligible for the exclusion, will probably get the exclusion.

Q. I am thinking of giving several properties to my grandchildren. Can I decide which grandchild gets the exclusion?

A. Probably, as long as you separately transfer each property to each grandchild. Remember that the first grandchild who acquires property, and is eligible for the exclusion, will probably get the exclusion. This assumes that the parents of the grandchildren who would qualify for a Proposition 58 exclusion from the grandparents are deceased. It also assumes that the grandchildren have not already reached the \$1,000,000 limit for "other property" transferred to them by their parents under Proposition 58.

Q. My two sisters and I recently inherited several properties from our parents. Which one is entitled to the exclusion?

A. You must decide that among yourselves. Remember that the first eligible person, who claims the exclusion in a timely manner, will probably get the exclusion.

Q. I recently inherited seven commercial properties, other than the principal residence. How do you decide which properties will get the \$1,000,000 exclusion if I qualify?

A. You must make that decision.

Q. My mother recently died and left me with about \$4,500,000 worth of property in Arizona. She also left me an apartment house in Santa Barbara, which is currently assessed for \$306,000.

Does inheriting the Arizona property put me over the \$1,000,000 limit, and make me ineligible for the Proposition 58 exclusion on the apartment house?

A. No. You should be eligible if you meet all of the other requirements. The \$1,000,000 limit applies only to transfers of properties within the State of California.

Q. I recently inherited four large warehouses on one parcel from my mother. Currently, the assessed value is \$1,428,400. The property is actually worth about \$2,900,000, however. Am I eligible for the Proposition 58 exclusion?

A. If you meet all of the other eligibility requirements, you are probably entitled to the Proposition 58 exclusion for a portion of the value. We will reappraise the property at its actual current market value. \$1,000,000 of the old assessment will be excluded from reappraisal, except for the 2% annual trending. The amount of the old assessment which exceeds \$1,000,000 ($\$428,400 / \$1,428,400 = 30\%$) will be reassessed at the actual market value, and added to the excluded \$1,000,000 value.

Q. Isn't the Assessor precluded, under Proposition 58 and Proposition 193, from issuing a supplemental assessment when the applicable (Proposition 58 or Proposition 193) exclusion applies?

A. Ordinarily this is true, unless a portion of the old assessment(s) exceeds \$1,000,000. If a person qualifies for the exclusion, and a supplemental assessment has been issued, it will be deleted. If the supplemental tax has already been paid, a refund will be issued.

Q. My father died on December 1, 1990, and the property was sold out of probate to a third party on November 20, 1991. Do I still have (3) years from the date of death to file a Proposition 58 claim?

A. No. You must file prior to the sale to the third party.

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