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Wills, Trusts, Probate
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Due to Steep Home Prices, the Ability to Retain Real Property May Depend Upon Avoiding Reassessment

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Avoiding Real Property Tax Reassessments

How to Transfer Property and Keep Your Proposition 13 Value

Real property tax is levied at 1% of a property's *assessed value* (plus local adjustments). Assessed value is generally levied at date of purchase, and is usually equal to the purchase price. Since the passage of Prop. 13 in 1978, the increase in each succeeding year's property tax is limited to an annual inflation adjustment equal to 2% of the prior year's assessed value.

Because homes have historically appreciated greater than 2% per

To claim the interspousal and RDP exclusions from reassessment, the couple need only file a Preliminary Change of Ownership Report (PCOR) to describe the transfer and no other claim form need be filed.

Additionally, retroactive relief is allowed for transfers between RDPs occurring between 01/01/2000 and 01/01/2006. To be eligible for a reassessment reversal, the couple must have been RDPs as of the date of transfer. If so, the RDPs must file Form BOE-62-DP, "*Claim for Reassessment Reversal for Registered Domestic Partners*" by June 30, 2009. A copy of the "*Certificate of Registered Domestic Partnership*" must be submitted with the form.

year, the disparity between fair market value (FMV) and assessed value has widened. Therefore, a family's ability to maintain property in the family may depend upon the ability to avoid reassessment. As a result, it is critical to understand reassessment triggers and the exclusions to reassessment.

Change in Ownership Triggers Reassessment. Generally, property is reassessed when 50% or more of the interest changes ownership. This event is called a "change in ownership" (CIO).

Exclusions to Reassessment. There are four main exclusions to reassessment. They are:

1. *Transfers between spouses or registered domestic partners (RDPs).* Unlimited transfers can be made between spouses. Furthermore, as of 01/01/2006, RDPs were granted unlimited transfers as well.

2. *Parent / Child Transfers (Prop. 58).* This exclusion not only covers transfers from parent to child, but also from child to parent. Unlike the spousal and RDP exclusion, this exclusion is not unlimited. Instead, this exclusion shelters the transfer of a "principal residence" plus \$1,000,000 of other real property between parent and child. (The \$1 million exclusion is based on the assessed value of property.) Furthermore, the exclusion must be affirmatively claimed on Form BOE-58-AH, "*Claim for Reassessment Exclusion for Transfer Between Parent and Child*". The form must be filed with the assessor within 3 years of the transfer and prior to the transfer of the real property to a third party. If the form is not filed, property will be reassessed. The reassessment can be corrected by filing the claim form, but unlike the RDP exclusion, no retroactive relief applies, only prospective.

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Avoiding Reassessment of Property Tax Base (continued)

A child includes a natural child, a child adopted before age 18, a foster child, a child-in-law, a stepchild and a spouse of a stepchild. Even if a relationship of a parent and child-in-law is terminated by death of the child-spouse, the relationship still exists for property tax purposes until the child-in-law remarries.

3. Grandparent / Grandchild Transfers. An exclusion from reassessment also applies to transfers between grandparents and grandchildren, but only when **both** qualifying parents (the intervening generation), are deceased. The rules in this area are a bit rote. The death of a grand-

For transfers after Jan. 1, 2006, a grandchild's stepparent does not need to be deceased for a grandchild to claim the grandparent/grandchild property tax exclusion. Therefore, in the example above, if H and W divorce and H later marries Sara (S), and H dies leaving S a widow, G can leave property to C using the exclusion. Because S is C's step mother, S does not qualify as a child of G for exclusion purposes.

4. Exclusion for Base-Year Transfers. Homeowners who are at least age 55, or a person of any age who is severely and permanently disabled, are provided a one-time transfer of their Prop. 13 property tax base value to a new home when the individual sells a

Proper Planning Can Help to Preserve Your Property Tax Base

parent's child is sufficient to qualify for the exclusion only if the child's widow/widower remarries.

For example, Hal (H) and Wendy (W) are the parents of Chris (C). George (G) is Hal's father. H later passes away, leaving W a widow. If G gives real property to C, the transfer does not qualify for the reassessment exclusion since W is still living. If W remarries, the exclusion applies since W's remarriage means that she no longer qualifies as G's child for purposes of the exclusion.

A different result occurs if H and W divorce first, and H later passes away. W is not a widow. If G gives C real property after H's death, the exclusion applies since W no longer qualifies as G's child for exclusion purposes due to divorce.



home and purchases a replacement that is equal or lesser value. To take advantage of this transfer, both the original home and the replacement must be located in the same county, or within counties that have an ordinance allowing a base-year transfer. The counties that currently allow this transfer are: Alameda, San Mateo, Los Angeles, Santa Clara, Orange, Ventura and San Diego. Other requirements of this one-time transfer must be met. When married couples claim this base-year transfer together, they are considered to have both used their transfer exclusion.

Conclusion. Preserving our property tax base values are critical since reassessment can make home costs unmanageable. Proper estate planning can help preserve your assessed base value.

About Me & My Practice. I graduated cum laude from the University of the Pacific in Stockton, CA. I received my law degree from UC Davis and graduated from Golden Gate School of Law with a Masters in Taxation. For the last 10 years, I have practiced exclusively in the area of estate planning, probate and trust administration. In my off hours, I support Pacific and Cal athletics, the SF Giants, the Sacramento Kings, and play (and watch) tennis! ☺