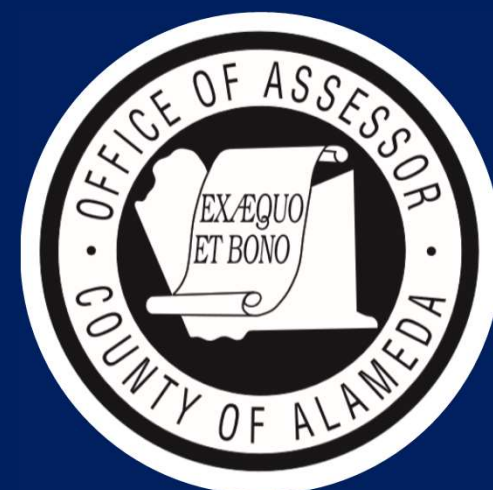


PHONG LA, ASSESSOR
OFFICE OF ASSESSOR



PROPOSITION 19

AND HOW IT MODIFIES PROPOSITION 13 (PROPERTY TAXES)

WHAT WE KNOW AND
WHAT WE DO NOT KNOW YET...

DECEMBER 2020

Disclaimer

This information has been prepared by the Alameda County Office of the Assessor for information purposes only and does not constitute legal advice.

It is not legal advice or a substitute for obtaining legal advice from an attorney. It is not tax advice or a substitute for obtaining tax advice from a CPA or accountant.

Any person who reviews the information should not rely upon it or act on it in any manner without first engaging professional counsel.

The information is intended to communicate general information.

The election in November 2020

Two ballot initiatives affecting property taxes: Proposition 15 and Proposition 19

- Proposition 15 (Re-Assessing Commercial/Industrial properties every 3 years)
 - Did Not Pass
- Proposition 19 (Changes Base Value Transfer Rules and Parent/Child Exclusion Rules)
 - Did Pass
 - 51% of California Voters in favor, 49% oppose

Proposition 19 has two main components:

1. Base Value Transfers (for people 55 years old and older, Fire Victims)
2. Parent/Child Exclusion for primary homes and investment properties

In order to understand Proposition 19, we must understand Proposition 13 which was passed by California voters in 1978

Proposition 13 gives property tax benefits for long term ownership

My parents buy a house in Union City, CA for \$100,000 in 1980.

They are assessed \$100,000 and pay about \$1,250 in property taxes in 1980.

The property is now worth \$1,000,000 in 2020

But the property is assessed at about \$200,000 (\$100,000 plus 2% a year for 20 years compounded) – property taxes are about \$2,500 **per year in 2020** for my parents.

It does not matter if they live there or rent it out.

New owners of the same house

Properties are re-assessed when there is a “change in ownership”, assessments are increased with new construction.

New family buys my parent’s house in Union City, CA for \$1,000,000 in 2020.

They are assessed \$1,000,000 and pay about \$12,500 in property taxes in 2020.

Proposition 13 restricts the increases in assessments to 2% a year and caps the property tax amount to 1% of the assessed value (with special assessments added such as school bonds, vector control, etc. that voters approve)

Proposition 19 has two main components:

~~1. Base Value Transfers (for people 55 years old and older, Fire Victims)~~

2. Parent/Child Exclusion for primary homes and investment properties

We will discuss the parent/child exclusion portion of Prop 13 first

Adding to Proposition 13 in 1986 and 1996 – Prop 58/193 Parent(grandparent)/Child(grandchild) Transfers

Prop 58 effective November 6, 1986, excludes from reassessment transfers of real property between parents and children (sale, or gift).

Prop 193 effective March 27, 1996, ... extends exclusion to grandparents, providing parents of grandchildren are deceased (sale or gift).


These propositions allow the new property owners to avoid property tax increases when acquiring property from their parents or children (or from their grandparents if the parents have passed away)

Current Law (Continued)

- **Which transfers are excluded?**
 - Transfers of primary residences (no limit on value)
 - Transfers of the first \$1 million (assessed value not market value) of real property other than the primary residence (applies separately to each eligible transferor)
 - Transfers may result in a sale, gift or inheritance
- **What value of the transferred property is counted?**
 - The Proposition 13 value (factored base year value) just prior to the date of transfer)
- **Eligible children/grandchildren**
 - Child born of parents, stepchild, son or daughter in law, adopted child; any child of parents who qualify as children of grandparents



Prop 13: Current law until 2/15/2021


- My parents bought a house in Union City, CA for \$100,000 in 1980.
 - They are assessed \$100,000 and pay about \$1,250 in property taxes in 1980.
 - The property is now worth \$1,000,000 in 2020
 - Current Assessed value of \$200,000
 - Parents transfer the house to me (gift, sale, or inheritance)
 - If child timely files a Claim for Reassessment Exclusion Between Parent and Child, assessed value remains at \$200K (must be filed within 3 years)
 - If done properly, property taxes stay at about \$2,500 per year... and increase about \$50 per year. Otherwise the property is re-assessed and property taxes become about \$12,500 per year.
- 

Prop 13: Current law until 2/15/2021

- For Rental Properties, there is a limit of \$1M in assessed value (cumulative).
- Parents transfer the rental house to me, the Current Assessed value of \$200,000 means they can transfer 5 of them.
- If child timely files a Claim for Reassessment Exclusion Between Parent and Child, assessed value remains at \$200K (must be filed within 3 years)
- If done properly, property taxes stay at about \$2,500 per year... and increase about \$50 per year. Otherwise the property is re-assessed and property taxes become about \$12,500 per year.
- No limit for primary homes
- (NOTE - speak with a CPA/tax attorney about possible capital gains tax issues)



Proposition 13 (cont.)

- Trust and will distribution may qualify; the administration of a trust is governed by the trust instrument. It depends on what the trust states.
 - Transfers of real property must be between eligible parents and children or grandparents, not legal entities; an LLC is considered a legal entity as are partnerships and corporations
- 

Proposition 19 has two main components:

1. Base Value Transfers (for people 55 years old and older, Disabled Individuals, Fire Victims) --- referred to as Prop 60/90

~~2. Parent/Child Exclusion for primary homes and investment properties~~

We will discuss the base value transfer under Prop 13 next

Prop 60/90 (cont.)

- What is the difference between Proposition 60 and Proposition 90? Proposition 60 allows transfers of base year values within the same county (intracounty). Proposition 90 allows transfers from one county to another county in California (intercounty) and it is the discretion of each county to authorize such transfers.
- What are the counties that have enacted ordinances to accept intercounty transfers? As of June 5, 2015, the following ten counties in California have an ordinance enabling the intercounty base year value transfer:
- Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Tuolumne, Ventura

Downsizing (in price not square footage)

Spouses buy a home in Alameda in 1980 for \$200,000. The assessed value is about \$400,000. The property taxes are about \$5,000 a year.

Today the house is worth \$1.2M (market value)

Spouses sell the Alameda home and buy a home in Livermore to be closer to their daughter for \$700,000

Their new home on Livermore will maintain their \$400,000 assessment and they continue to pay just \$5,000 per year in property tax

Downsizing (in price not square footage)

Spouses buy a home in Alameda in 1980 for \$200,000. The assessed value is about \$400,000. The property taxes are about \$5,000 a year.

Today the house is worth \$1.2M (market value)

Spouses sell the Alameda home and buy a home in Los Angeles to be closer to their daughter for \$700,000

Their new home on Los Angeles will maintain their \$400,000 assessment and they continue to pay just \$5,000 per year in property tax

Prop 60/90 (cont.)

- You must complete the Sale and Purchase within two years of selling the original or buying the replacement
- Once you start the two-year clock it cannot be stopped
- You cannot get benefit (move the base) until you complete both phases
- Market value of the home purchased must be the same or less than the market value of the home sold or home constructed.*
(*There are a couple of very limited exceptions depending on when the homes were sold, bought, or constructed.)
- This is in the Constitution

Proposition 19

The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act of 2020

What does Prop 19 do?

When does it take effect?

Proposition 19 (2020)

Effective February 16, 2021 for Parent/Child Transfers

Effective April 1, 2021 for Base Value Transfers (over 55 years old)

WHAT WE KNOW ABOUT BASE YEAR TRANSFER PRINCIPAL RESIDENCE ONLY

- Base year transfer expands from some counties to all counties
- Replacement property can cost more than sale price of original
- Base year transfer can be taken 3 times
- If replacement costs more than original sold for, difference between those values is added to base year of original for transfer purposes.
- Examples on the next slides.

Downsizing (in price not square footage)

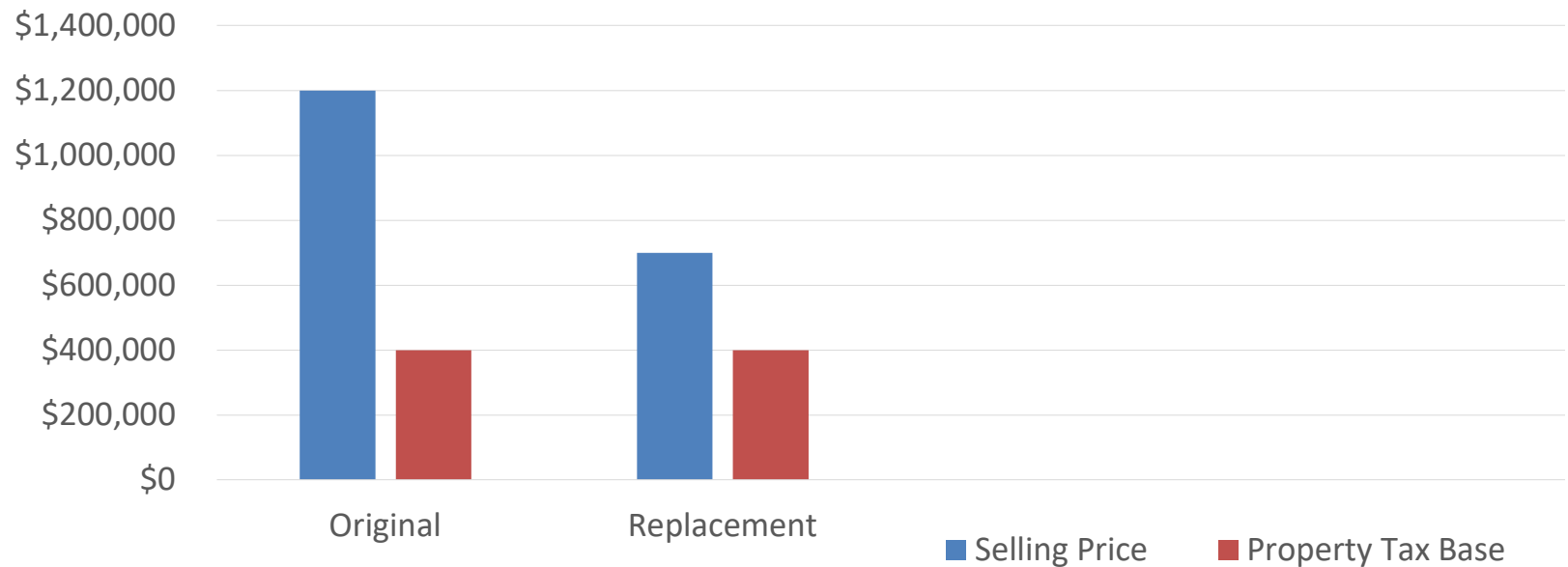
Spouses buy a home in Alameda in 1980 for \$200,000. The assessed value is about \$400,000. The property taxes are about \$5,000 a year.

Today the house is worth \$1.2M (market value)

Spouses sell the Alameda (or anywhere in CA) home and buy a home in Livermore to be closer to their daughter for \$700,000

Their new home on Livermore will maintain their \$400,000 assessment and they continue to pay just \$5,000 per year in property tax

GRAPH OF EXAMPLE



Example: original home sells for \$1,200,000. Replacement home costs \$700,000. Assessed Value of original is \$400,000. Transferred base year will be \$400,000 saving \$3,750 in property taxes a year.

Upsizing (in price not square footage)

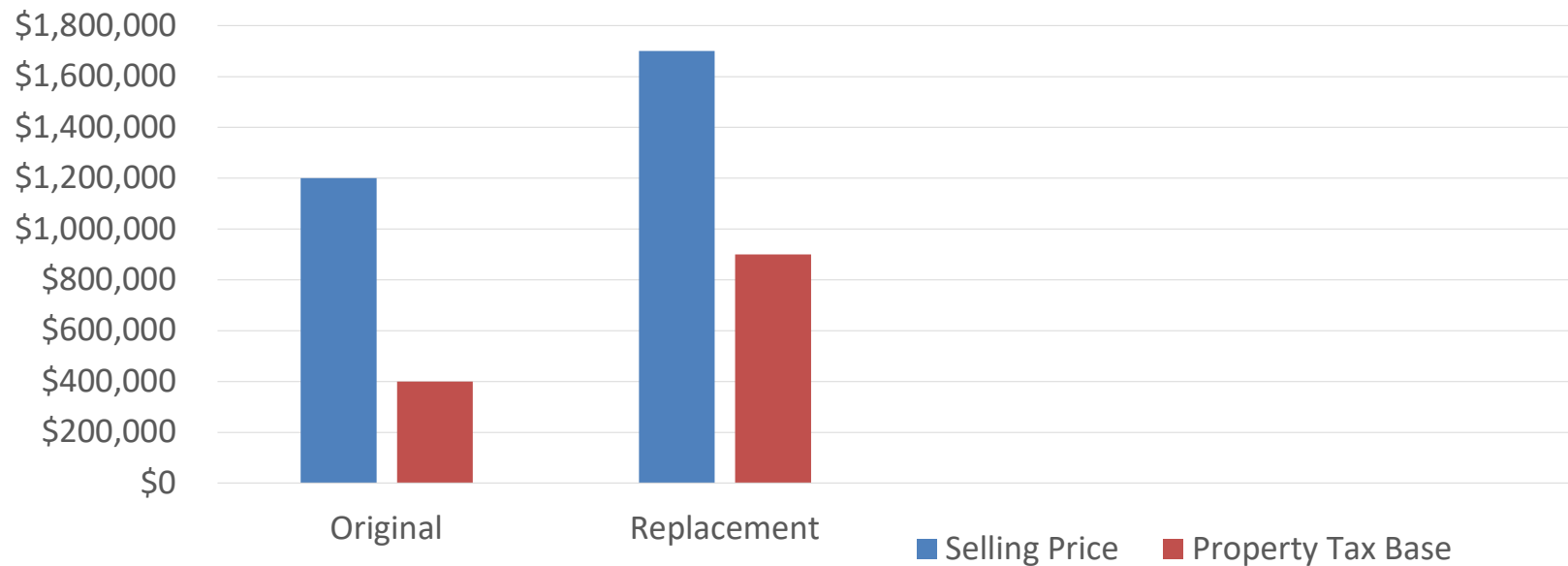
Spouses buy a home in Alameda in 1980 for \$200,000. The assessed value is about \$400,000. The property taxes are about \$5,000 a year.

Today the house is worth \$1.2M (market value)

After April 1, 2021, spouses sell the Alameda home and buy a home in San Diego to be closer to their daughter for \$1,700,000

Their new home on San Diego (or anywhere in CA) will have an assessed value of \$900,000 and they will pay about \$11,250 per year in property tax rather than \$21,250

GRAPH OF EXAMPLE



Example: original home sells for \$1,200,000. Replacement home costs \$1,700,000. (Assessed Value) Base year of original is \$400,000. Transferred base year will be \$400,000 plus \$500,000 (difference between \$1.7 and \$1.2M) or \$900,000 saving \$10,000 a year in property taxes

Parent/Child Transfers

So how do Proposition 13 taxes work now when a parent dies and leaves property to a child...?

Proposition 19

The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act of 2020

- Effective February 16, 2021, Changes the Parent to Child(ren) and Grandparent to Grandchild(ren) Exclusions
- Principal residence of the parent/grandparent must remain principal resident of the child(ren)/ grandchild(ren) and capped at \$1 million plus assessed value
- Must file for homeowner's exemption within 1 year
- Transfer of other property is no longer available after February 15, 2021 (rental, commercial properties, vacation homes, etc.)

After February 15, 2021

Parent to Child/Grandchild Transfers **eliminated** for the following:

This means that your residential rentals will be *reassessed at transfer to your children (death, gift or sale)*

This means that your commercial rentals will be *reassessed at transfer to your children (death, gift or sale)*

This means your industrial rentals will be *reassessed at transfer to your children (death, gift or sale)*

This means that your family vacation home or cabin will be *reassessed at transfer to your children (death, gift or sale)*

Primary Home exception:

Parent to Child/Grandchild Transfers exclusion-

Parent to child transfer of the parent's primary home **but** child must occupy property as his/her primary home... no reassessment on the assessed value plus \$1M in market value, but reassessment over assessed value + \$1M

Effective Feb 16, 2021... but Feb 12th and Feb 15th are County holidays and all County offices will be closed that day.

The Recorder is also not allowing walk in Recordings (more to discuss in future slides).

WHAT WE KNOW ABOUT PARENT TO CHILD EXCLUSION

Example 1:

My parents buy a house in Union City, CA for \$100,000 in 1980.
The property is now worth \$1,000,000 in 2020.

But the property is assessed at about \$200,000 (\$100,000 plus 2% a year for 20 years compounded) – property taxes are about \$2,500 **per year in 2020** for my parents.

If the sum of the assessed value (base value) plus \$1M is greater than the market value, then I get to keep the current assessed value.

My parents give me the house, I get to keep the \$200,000 assessed value and the low property taxes.

WHAT WE KNOW ABOUT PARENT TO CHILD EXCLUSION

Example 2:

My parents buy a house in Piedmont, CA for \$100,000 in 1980.
The property is now worth \$2,000,000 in 2020.

But the property is currently assessed at about \$200,000 (\$100,000 plus 2% a year for 20 years compounded) – property taxes are about \$2,500 **per year in 2020** for my parents.

My parents give me the house, my new property taxes are assessed at \$1,000,000 rather than the full market value of \$2,000,000 but it's more than the \$200,000 that my parents were paying on.

Why? Calculation on next slide.

EXAMPLE 2 (cont'd)

\$200,000 current assessed value (base value)

- \$200,000 assessed value from previous slide
- Assessed value (\$200k) plus \$1M is not reassessed. But \$200k remains plus the value over \$1.2M
- Value over \$1.2M is \$800k.
- \$800k plus original assessed value of \$200k equals new assessed value of \$1M
- New property tax amount is about \$12,500
- Higher than my parent's amount of \$2,500 but lower than market value assessment of \$25,000
- Transferee must reside in principal residence within one year of transfer.
- Effective February 16, 2021 no parent to child exclusion for properties other than principal residence.

WHAT WE KNOW ABOUT PARENT TO CHILD EXCLUSION

Example 2:	<u>Property taxes each year:</u>
Parent's keep the house:	\$2500
Parent's transfer the house to me before 2/15/21:	\$2500
Parent's transfer to me the house after 2/15/21:	\$12500
Parent's used the house as a rental property and transfer after 2/15/21:	\$25000

Items of Concern

(Speak to an Attorney about legal issues, speak with a CPA/accountant/Tax Attorney about tax issues)-

Transferring property:

Loss of control, subject to child's divorce, law suits and bankruptcy, loss of rental income and your child may die before you do (we don't know if child can transfer to parents anymore)

Your basis carries over to the child (capital gains tax), "Basis" is purchase price, plus improvements, minus depreciation

Sale Price – Basis = Taxable Gain

At death, property generally gets an "adjusted basis" to fair market value at date of death

Items of Concern

Transferring property:

If your kids are going to keep one or more properties as a rental, vacation home or primary home, then your plans may be different than if your kids are going to sell your real estate after you pass away. Property tax savings versus capital gains.

Prop 19 may or may not affect you and your family depending on the situation.

SEEK ADVICE FROM AN EXPERT (Speak to an Attorney about legal issues, speak with a CPA/accountant/Tax Attorney about tax issues)-

WHAT WE DO NOT KNOW YET:

BASE VALUE TRANSFER

- Will purchase of replacement residence prior to April 1, 2021 be grandparented into the two year window for making a transfer?
- Will sale of original residence prior to April 1, 2021 be grandparented into the two year window for making a transfer?
- How will counties track the three time limit on doing a base year transfer?
- For second or third time transferors, will the original residence be the last residence purchased?

WHAT WE DO NOT KNOW YET: PARENT TO CHILD EXCLUSION

- Can a parent transfer consecutive principal residences to children?
- If parent transfers principal residence to multiple children, does only one child have to move into the residence?
- How long does the child have to live in the principal residence to retain the parent to child exclusion?
- Can different children live in the principal residence during different time periods?
- How will counties determine that homeowner exemption is still valid?
- Will the state track parent to child transfers of principal residences?
- Can children transfer to their parents?

CAUTION: PARENT TO CHILD EXCLUSION

- County Recorder is closed on Friday, Feb 12th and Monday, Feb 15th.
- County Recorder is separate from the County Assessor.
- The information from the BOE so far doesn't extend the deadline due to a Government Holiday.
- Assessor used Recording date to determine if the property transfer meets the Feb 15 deadline NOT the signature date and NOT the post mark date (we don't see the envelope).
- Recorder is backlogged.
- Mail in documents are recorded about a month after being received (Deeds mailed in Feb 1, 2021 may not get recorded until March 1, 2021).
- Drop off documents may not get recorded the same day either.
- Electronic Recording is usually done the same day.
- No walk in Recordings due to COVID.

FOR ALAMEDA COUNTY, THIS MAY BE DIFFERENT IN OTHER COUNTIES

Common questions we can answer:

1. Do both spouses have to be 55 to qualify for the BVT?

BVT – only one spouse has to be 55 years or older to qualify

2. What if my house is in an LLC?

Primary homes held by an LLC does not qualify for a homeowner's exemption

Change in control of an LLC triggers a re-assessment.

3. Is the parent child exclusion automatic?

No. Prior to Prop 19 taking affect, a Child has three years to file for the parent child exclusion with the Assessor. Once Prop 19 takes affect, the Child must file for the homeowner's exemption within one year.

SEEK ADVICE FROM AN EXPERT (Speak to an Attorney about legal issues, speak with a CPA/accountant/Tax Attorney about tax issues)-

Q&A Session

- How does Prop 19 affect second homes and/or vacation homes?
 - Does this eliminate the step-up basis?
- One of my clients read that with Prop 19, there will be no step up in basis if they move into their parents home and make it his primary home. He said he can only do one or the other (keep low tax basis or step up the basis). Is this true?
 - Does this only affect 1-4 units and if it is a residential income, how does Prop. 19 work then and what about units more than 5 units or does this only pertain to single family units?
- What is the impact if a property owner transferred a current rental property to their children to avoid the property tax reassessment in terms of cost basis? The rental property is worth around \$1.2 Million. Intent is to keep as a rental or sell in the future.

***Talk to your CPA, accountant, tax attorney**

Q&A Session

Questions on dates related to Base Value Transfer and the what happens before or after April 2021:

- I sold my house in Aug 2020 and have not purchased the replacement property yet. If I wait until April, would I be able to buy the replacement home with a higher price of more than 5% of the sold price and pay the difference and still keep the base as my old house?
- (55+) Can I buy a house in San Ramon after April 1st, 2021 & transfer my property taxes from the house I sold in July 2020 in San Leandro (principal residence)
- In July 2019, I bought a new primary residence in Contra Costa County. I sold my Berkeley home of 40 years in October 2019. Can I still transfer my old Alameda County tax base to my new home in Contra Costa County even though the purchase/sale happened before Prop 19 passed?

Q&A Session

Questions on Base Value Transfer:

- Once Prop 19 is in effect, may a California homeowner transfer their tax base from their current primary residence they plan to sell to an existing property they already own and will become their new primary residence?
- What will be the birth date to be eligible to be age 55?

Q&A Session

Questions on Parent-to-Child Transfers:

- What, if any, changes will Prop 19 bring to the assessed value of property should a parent or grandparent wish to add a name of a child or grandchild to the title of real property during the lifetime of the parent or grandparent?
- How is primary residence established for a child property tax transfer exclusion and how long does a child need to live in the home as a primary residence? For example, if a child lives in the home for two years and then decides to move out and rent the home does the transferred prop tax still remain or is the property re-evaluated.

Q&A Session

Questions on Parent-to-Child Transfers:

- What are the property tax ramifications to the child receiving their parent's second home after the parents die if the property was subject to Prop 13 and will be used by the child as the child's primary residence?
- What are the property tax ramifications to the child receiving their parent's primary residence after the parents die if the property was subject to Prop 13 and will be used by the child as the child's primary residence?

Q&A Session

Trust Documents

- Trust – be careful when drafting trust documents. We review the trust documents to determine if a “change in ownership” took place. For instance, a revocable trust changing beneficiaries may trigger a re-assessment at the time the beneficiaries of the trust changes. Again, get advice from an attorney about your trust if you have specific trust questions. Our office will not answer specific trust questions.



Property Transfer Clinic

Do you have questions about:

- The Assessment Process in Alameda County
- Transferring property to family members
- What happens to property after the death of a loved one
- Common exclusions from reassessment

Talk with a volunteer attorney for a
FREE 30-minute consultation.

Clinics are held every third Thursday and Friday of every month.
Visit <https://guides.aclibrary.org/lawyers>
and click **Schedule an Appointment**.



Upcoming Dates:

December 17 & 18, 2020

January 21 & 22, 2021

February 18 & 19, 2021

Appointments begin at 12PM.

The Property Transfer Clinic is a partnership between the Alameda County Library, the Alameda County Law Library, and Legal Access Alameda. It is funded by the Alameda County Assessor's Office.



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