

# Putting California's Property Tax Laws to Work

By Larry Stone



Proposition 13: Love it or hate it, but please don't ignore it! More than any other law, it is critical that Realtors and other professionals understand and convey to their clients Proposition 13 and the additional ballot initiatives it has spawned.

## PROPOSITION 13

In 1978, voters overwhelmingly passed Proposition 13 in reaction to skyrocketing property values, which were literally taxing senior citizens from their homes. Inflation in the late 1970s was rampant. Home prices were soaring and incomes, especially those of senior citizens on fixed incomes, were not keeping pace with assessed values and property taxes. Assessors, in performing their constitutional responsibilities, had no choice but to increase assessed values to reflect the rising market. The result: Proposition 13.

With the passage of Proposition 13, base-year property values were established for all properties in California. Thereafter, unless there is a change of ownership or new construction, assessed values can only be increased a maximum of 2 percent annually. Consequently, the longer a property is owned, the greater the tax benefit.

Over time, a property owner's assessed value becomes sacrosanct, something to be cherished and preserved for as long as possible. Since 1978, the voters have approved 16 amendments to the California Constitution granting additional special property tax relief or benefits. In general, these initiatives allow qualifying property owners the right to transfer a low assessed value without reassessment.

## PROPOSITIONS 60 AND 90

Allows a homeowner over the age of 55 to transfer the assessed value of a principal residence to a newly purchased residence provided certain requirements are met:

- The replacement must be purchased or newly constructed within two years (before or after) of the sale of the original residence.

- At least one of the property owners must be 55 or older when the original residence is sold and the replacement residence purchased.
  - To qualify, the homeowner must have been either: 1. receiving, or eligible for, a homeowner's exemption; or 2. receiving a disabled veteran's exemption on the original and replacement residences.
  - In general, the replacement residence must be equal to or lower in value than the original residence as of its date of sale.
  - The benefit can be granted only once, except for certain circumstances regarding severely and permanently disabled persons.
  - Applications must be filed within three years of the date the replacement residence is purchased or newly constructed.
  - Transfers of the assessed value of a principal residence outside of Santa Clara County are allowed in the following counties: Alameda, Los Angeles, Orange, San Diego, San Mateo, Santa Clara and Ventura.
- The primary purpose of these propositions is to allow "empty nesters" to "downsize" without incurring a large property tax increase.

## PROPOSITIONS 58 AND 193

Excludes from reassessment, transfers of property between parents and children, and in certain cases between grandparents and grandchildren.

Proposition 58, and subsequently Proposition 193, allows qualifying parents and grandparents to transfer to children and grandchildren a principal residence without reassessment. In general, the basic requirements are:

- A timely claim must be filed with the assessor's office.
- A transfer from grandparent to grandchild cannot be excluded from reassessment unless the parents of the grandchild are deceased. A two-step process through the intervening generation is allowed when the grandparent transfers to the parents who then transfers to the grandchild.

However, there may be income, gift and estate tax consequences.

- There is \$1 million limit (taxable value) on transfers of property other than the principal residence.
- There is no value limit on the transfer of the principal place of residence.
- Transfers from or to a legal entity (i.e., corporations, partnerships) do not qualify even though the entity may be wholly owned by the grandparent, grandchild, parent or child.

## OTHER EXCLUSIONS

Because the impact of a reassessment on property taxes can be dramatic, it is critical to understand what triggers a reassessment before recording a deed. For example, adding a future spouse to title prior to marriage will trigger a 50 percent reappraisal of the property, even if no money is exchanged. After marriage, the transfer is excluded from reassessment because it is an interspousal transfer. The same is true for registered domestic partners.

Similarly, adding anyone other than a spouse or a registered domestic partner — even a family member — to the title may cause a reassessment.

If individual(s) are added to the title for credit or financing purposes only (i.e., cosigner) the reasons must be documented, generally with a notarized contemporaneous agreement signed by all the parties. It is recommended that a copy of that document be attached to the preliminary change of ownership report (PCOR) when the deed is recorded.

Transfers between legal entities are even more complicated. Whether adding another person or entity to the property title, or conveying a property to another person or legal entity, it is recommended to consult a professional before concluding the transaction.

*Larry Stone is the Santa Clara County Assessor. For more information, please consult the assessor's website, [www.scc-assessor.org](http://www.scc-assessor.org), or contact the assessor's office at (408) 299-5500. ■*