

PROPERTY TAXES - AVOIDING REASSESSMENT

Prior to the passage of Proposition 13, the county assessor in each county would reassess the value of property every four years or so. During times of high appreciation, property taxes often quadrupled, leaving those on a fixed income unable to afford the taxes, and being forced to sell their homes.

The failure of the state legislature to act in the best interest of the taxpayers (sound familiar?) resulted in one of the first initiatives of the initiative process, Proposition 13. Under Proposition 13, the assessed value would be based on the value of the property at the time of a change of ownership, and could be no more than 1% of the fair market value. The assessed value, and therefore the tax amount, could not be increased more than 2% per year. Furthermore, no additional tax could be added to the property taxes without approval of two-thirds of the voters affected.

Exceptions

There are some exceptions to the change in ownership rule:

- A transfer of the property into a revocable trust, in which the original creators of the trust are also the beneficiaries of the trust.
- A change in the method of holding title, such as changing from joint tenancy to tenants in common, or transferring the title to a Limited Liability Company (LLC). In order for this to qualify, the percentage ownership of the LLC must be the same as the percentage ownership of the real property.
- Transfers between spouses
- Transfers between joint tenants (not to be confused with transfers between tenants in common).

Over the years, through the initiative process, two additional exceptions to the rules regarding reassessment upon change of ownership were created.

- Transfers between parents and children - Under Proposition 58, a parent can sell or gift a property to their child, and the child can retain the property tax level that was enjoyed by the parent. This applies to transfers from children to parents, too. This is not an automatic exception, however, and the application for the exclusion must be filed with the County Assessors office, generally within 6 months of notification of a reassessment (supplemental tax bill).
- Transfers between grandparents and grandchildren - Proposition 193 provides an exclusion from reassessment on these types of transfers, provided both parents of the grandchildren are deceased as of the date of the transfer.

Decline in Value

What happens if the value of real property decreases? A property owner can file an application to have the assessed value of the property reduced to current market values. In order to do so, they will be required to substantiate the value they are claiming through appraisals, Broker Opinion of Value, or some other method. For example, assume you had a client who purchased a home for \$3 million, and you can now substantiate that the

fair market value is now \$2.5 million. A reduction in assessed value to current market value would save more than \$5,000 per year in property taxes!

Unfortunately, the “Base Year” amount (the original purchase price) remains the same. Therefore, if the market increases again, the assessor is not limited to the 2% annual increase until he has reached the tax amount that would have been allowed based on the original purchase price. There ways to make the decrease in value permanent, but they are too complicated to discuss in this article.

In today’s market, where values have declined on the high end properties, agents should contact their clients to help them to reduce their property taxes permanently. While there is some expense to do so, the savings to your clients could be as much as \$2000 per year. Obviously, this can add up when someone is planning to stay at a property for many years.

Transfer of Property Tax Base

In many cases, it became impossible for many people thinking of retirement to move out of homes that were so much larger than they needed or could maintain, and purchase something smaller for retirement. Their home could have a Property Tax base of \$100,000, but with a value of \$1.2 million. If they wanted to purchase a smaller home (let’s say \$800,000), their property taxes would go from about \$1,100 per year to more than \$8,500 per year.

Proposition 60 allows for the one time transfer of the property tax base from an existing primary residence to a new primary residence. Of course, there are certain rules to see if the person and the purchased property qualify.

- One of the transferors must be 55 years of age or older. If it is a married couple, the second person cannot do another transfer when he/she attains the age of 55.
- Generally, the replacement property must be in the same county as the property that is sold.
- The new property must be of equal or lesser value than the property sold, if the new property was acquired before the original property was sold. If the new property is purchased during the first year after the sale of the original property, the value of the new property cannot exceed 105% of the value of the sold property, or 110% if it is acquired in the second year after the sale of the property sold.
- The old property must have been eligible for the homeowner’s exemption.
- The replacement property must have been purchased within 2 years of the sole of the old property.
- The old property must be subject to reassessment to current market value. This means that you cannot sell it to your children and allow them to keep the old property taxes. It also means that you cannot sell it to someone over the age of 55 who is planning to move their Property Tax Base to your old home!

- A written claim must be filed within 3 years of the purchase of the new property (who would wait that long?)

An exception was made to the “One time” rule with the passage of Proposition 110. Should someone who used their one time “55 or over” transfer becomes severely and permanently disabled after the transfer, they can move the original tax base one more time.

Finally, under Proposition 90, a seller meeting the 55 and over rules can move the Property Tax Base to another county, provided that the county has adopted an ordinance allowing for such transfers. The only counties that currently have adopted such an ordinance are: Alameda, Los Angeles, Orange, San Diego, Santa Clara and Ventura.

Property tax issues can be very tricky, and people who are co-owners of property sometimes execute deeds that result in an increase in the property taxes that the person who retains ownership must now pay. If you have a client that is selling or deeding property, make sure they receive professional advice to insure that they do not have a surprise reassessment of their property, and consequently, an increase in property tax.

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