

Propositions 58/193

(Transfers Between Parent and Child; Grandparent and Grandchild)

What is Proposition 58? Proposition 58, effective November 6, 1986, is a constitutional amendment approved by the voters of California which excludes from reassessment transfers of real property between parents and children. Proposition 58 is codified by section 63.1 of the Revenue and Taxation Code.

What is Proposition 193? Proposition 193, effective March 27, 1996, is a constitutional amendment approved by the voters of California which excludes from reassessment transfers of real property from grandparents to grandchildren, providing that all the parents of the grandchildren who qualify as children of the grandparents are deceased as of the date of transfer. Proposition 193 is also codified by section 63.1 of the Revenue and Taxation Code.

How do these Propositions work? In the State of California, real property is reassessed at market value if it is sold or transferred and property taxes can sometimes increase dramatically as a result. However, if the sale or transfer is between parents and their children, or from grandparents to their grandchildren, under limited circumstances, the property will not be reassessed if certain conditions are met and the proper application is timely filed.

These propositions allow the new property owners to avoid property tax increases when acquiring property from their parents or children or from their grandparents. The new owner's taxes are calculated on the established Proposition 13 factored base year value, instead of the current market value when the property is acquired.

Which transfers of real property are excluded from reassessment by Propositions 58 and 193?

- Transfers of primary residences (no value limit)
- Transfers of the first \$1 million of real property other than the primary residences. The \$1 million exclusion applies separately to each eligible transferor.

Who are considered eligible children under Proposition 58?

A "child" for purposes of Proposition 58 includes:

- a. Any child born of the parent(s).
- b. Any stepchild while the relationship of stepparent and stepchild exists.
- c. Any son-in-law or daughter-in-law of the parent(s).
- d. Any adopted child who was adopted before the age of 18.

Spouses of eligible children are also eligible until divorce or, if terminated by death, until the remarriage of the surviving spouse, step-parent, or parent-in-law.

Who are considered eligible grandchildren under Proposition 193? An eligible "grandchild" for purposes of Proposition 193 is any child of parent(s) who qualify as child(ren) of the grandparents as of the date of transfer.

What is a trust "sprinkle/spray" provision? How does this affect a parent-child transfer? A "sprinkle or spray power" is a provision which gives the trustee complete discretion to distribute trust income or property to a number of potential beneficiaries. When a trust contains a sprinkle or spray provision, to avoid a change in ownership and reassessment, all of the persons included as beneficiaries under that provision must have an exclusion. If even one person included as a beneficiary is not excludable, then 100 percent of the trust property is subject to change in ownership. For example, if the "pool" of beneficiaries includes three children and a nephew, none of the children will be able to receive the parent-child exclusion because there is no available exclusion for the nephew.

What forms do I use to file for these exclusions?

For parent-child transfers (Proposition 58): (R&T Code 63.1, REV. 10-06)

For grandparent-to-grandchild transfers (Proposition 193): (R&T Code 63.1, REV. 8-06)

Copies of these forms are available from your assessor's office or you may check with your county's website as some provide a downloadable form.

www.oc.ca.gov/assessor/forms.asp • www.assessor.lacounty.gov • www.co.san-bernardino.ca.us/assessor

<http://riverside.asrclkrec.com> • www.assessor.countyofventura.org

What are the time filing requirements of Propositions 58 and 193? Generally, to get relief retroactive to the date of transfer, a claim must be filed with the county assessor's office by the earliest of the following:

- Within three years of the transfer
- Prior to transferring to a third party

If a notice of supplemental or escape assessment is mailed *after* the deadline for either of these periods has passed, then the transferee has an additional six months from the date of the notice to file a claim. For example, if a taxpayer received a *Notice of Supplemental Assessment* for a parent-child transfer dated January 1, 2003, and then received a *Notice of Proposed Escape Assessment* dated April 1, 2006, the taxpayer would have six months from April 1, 2006 to file a claim with the assessor.