
SENATE COMMITTEE ON REVENUE AND TAXATION

Senator Jerry McNerney, Chair
2025 - 2026 Regular

Bill No: SB 974

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Consultant: Summers, Grinnell

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Tax Levy: No

Fiscal: Yes

***PROPERTY TAXATION: CHANGE IN OWNERSHIP: GENERATIONAL TRANSFERS:
SPECIAL NEEDS TRUSTS***

Modifies the definition of “transfer” in statute implementing Proposition 19 (2020) to explicitly reference Special Needs Trusts.

Background

Special Needs Trusts. Often used to transfer property from one generation to the next, trusts are specific legal agreements to hold and administer property, in which a trustee manages property on behalf of others. Trusts allow grantors to pass assets to future generations while avoiding lengthy and costly probate proceedings. Trusts must identify:

- The creator of the trust, known as the trustor or grantor.
- The manager of the trust, known as a trustee or fiduciary.
- The beneficiary or beneficiaries who will receive property from the trust.
- The property the trust manages.

A Special Needs Trust (SNT) is a trust that allows disabled persons to maintain their eligibility for public assistance benefits, despite having assets that would otherwise make the person ineligible for those benefits, specifically Medicaid and Supplemental Security Income. Because the beneficiary does not own the trust assets, they remain eligible for benefit programs that apply asset limits.

Property taxation. Section One of Article XIII of the California Constitution provides that all property is taxable unless explicitly exempted by the Constitution or federal law. The Constitution limits the maximum amount of any ad valorem tax on real property at 1% of full cash value, plus any locally-authorized bonded indebtedness, and caps a property’s annual inflationary increase in taxable value to 2%. Assessors reappraise property whenever it is purchased, newly constructed, or when there is a change in ownership. The Constitution and statute define those terms.

As part of the effort to implement Prop. 13, the Legislature defined “change in ownership” as “a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.” For the most part, a trustor transferring property to a trust is treated as a change in ownership at the time of transfer, triggering a reassessment of the property held by the trust, with several exceptions. According to Board of Equalization (BOE) Rule 462.010, the transfer of real property by a trustor to a trust in which the trustor-transferor is the sole present beneficiary of the trust is not a change in

ownership, but generally becomes one when persons other than the trustor-transferor are or become present beneficiaries of the trust.

Change in ownership exclusions. The Legislature subsequently enacted, and voters approved, two change in ownership exclusions for property transfers from one generation to the next. Proposition 58 (1986) excluded transfers of property from parents to children from change in ownership (ACA 2, Hanigan). Ten years later, Proposition 193 extended the exclusion to transfers of property to grandchildren, so long as the parents are deceased (ACA 17, Knowles). These two changes created an exclusion to the requirement that property be reassessed when a change in ownership occurs. These exclusions applied to all inherited primary residences, regardless of value or number of transfers. They also applied to up to \$1 million in aggregate value of all other types of property, such as second homes or business properties.

ACA 11/Proposition 19. In 2020, the Legislature enacted, and voters approved as Proposition 19, the Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act (ACA 11, Mullin). Among other provisions, the Act enacted a new section of the California Constitution to limit the parent-child and grandparent-grandchild exclusion enacted by Propositions 58 and 193 to apply solely to the transfer of a principal residence when the property continues to be the transferee's primary residence. Among other requirements, the Act caps the amount of value that can be excluded for the principal residence to \$1 million. The transferee must also reside in the home for one year from the date of transfer to be eligible for the exclusion. The Act further repealed entirely the parent-child, grandparent-grandchild exclusion for up to \$1 million in aggregate value of all other types of property that is not the principal residence.

After the enactment of Proposition 19, the Legislature enacted an omnibus implementation bill to resolve several administrative uncertainties, largely based on similar law implementing Propositions 58 and 193 (SB 539, Hertzberg). Among its provisions, SB 539 defined "transfer" to include a transfer through the medium of an inter vivos or testamentary trust to ensure that these transfers were eligible for Prop. 19 intergenerational transfers.

BOE guidance states that assessors can look through a trust to its beneficial owners to determine whether an exclusion applies, such as a Prop. 19 intergenerational transfers, so long as the trustee or trustor submits a timely exclusion claim. While SB 539 includes trusts in its definition of "transfer" the author wants to explicitly include SNTs.

Proposed Law

Senate Bill 974 modifies the definition of "transfer" in statute implementing Proposition 19 to explicitly state that other forms of trusts can qualify for the exclusion, specifically SNTs.

State Revenue Impact

Pending.

Comments

1. Purpose of the bill. According to the author, "SB-974 provides important clarification to Proposition 19 by ensuring that Special Needs Trusts are recognized as meeting eligibility requirements for property tax protections. This will ensure that families planning for the long-

term care of a severely disabled loved one are not unfairly penalized with property tax reassessment.”

2. Barriers upon barriers. Proposition 19 significantly limited the intergenerational transfer change in ownership exclusion. Parents could no longer transfer property other than the principal residence to their children without reassessment, and the exclusion applies to the principal residence only when the transferee resides in the family home. As a result, a family leaving a second home to a child no longer qualifies for an exclusion, triggering a reassessment upon death of the previous generation. Even if the principal residence exclusion applies, Prop. 19 capped the exclusion amount to \$1 million, resulting in annual tax savings of around \$10,000. However, there are areas of the state where real estate values have appreciated by more than \$1 million from the purchase price, so even if the transfer qualifies for the narrowed exclusion, the child could face increased property tax obligations. In this case, children with special needs must either pay any additional property tax as a result of Proposition 19 or sell their home. However, affected individuals would likely be eligible for the Property Tax Postponement Program administered by the State Controller.

Support and Opposition (4/3/26)

Support: Association of Regional Center Agencies
California Taxpayers Association
City of Temecula

Opposition: None received.

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