

# THE C & D NEWSLETTER



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## REAL PROPERTY TAXES

Real property taxes are a very complex issue in California. Since 1978, property owners have utilized their voting rights to hold down government spending by limiting increases in these taxes. Some of the most important issues are as follows:

***Limitation in Real Property Tax Increases Under Prop. 13.*** Proposition 13 provides that the property tax rate is 1% of the "full cash value" (i.e., market value) of the property plus voter-approved debt. The full cash value is either (a) the assessor's 1975 value or (b) the value when the property was purchased, or (c) when the property undergoes a change of ownership, or (d) when the property is newly constructed. The assessed value may increase each year by an inflation factor not to exceed 2% per year.

***Change in Ownership Automatically Triggers a Reassessment.*** A change in ownership includes (a) the creation, transfer or termination of any joint tenancy interest, tenancy in common interest, or leasehold interest with a term of 35 years or more; (b) any interest in real property which vests in persons other than the trustor when a revocable trust becomes irrevocable; (c) the transfer of any interest in real property between a corporation, partnership or other legal entity, and a shareholder, partner, or any other person; and (d) a change of ownership of a legal entity (for example, when a person obtains a majority interest in a partnership).

***Exemptions from Property Tax Increases due to Change in Ownership.*** There are several exemptions to the "change of ownership" rule for reassessment of property taxes. For example, interspousal transfers are exempt from reappraisal. A transfer of real property to a trust does not constitute a change of ownership when (a) the grantor is the sole beneficiary of the trust, (b) the trust is revocable by the trustor, (c) the grantor retains a reversionary interest and the beneficial interest of any beneficiary does not exceed 12 years, or (d) the proportional interest of the beneficiaries in the trust property remain the same before and after the transfer of the property to the trust. A transfer of interest between an individual and a legal entity is exempt where the proportional interests of the individuals in the property remain identical before and after the transfer.

***Family Transfers Exempt from Property Tax Increases Under Prop. 58.*** Proposition 58, adopted by the voters on November 4, 1986, excludes from reassessment: (a) transfers of real property between spouses (reaffirming prior law), (b) transfers of the principal residence between parents and children, and (c) transfers if the first \$1,000,000 of "full cash value" of real property other than the principal residence between parents and children. Under Proposition 58, the term "children" is given broad meaning, and includes any child born of the parent(s), any stepchild or spouse of that stepchild while the relationship of stepparent and stepchild exists, any son-in-law or daughter-in-law of the parent(s), and any statutorily adopted child who was adopted before the age of 18. The reappraisal exclusion applies both to transfers from parents to children and transfers from children to their parents. The transferee must apply for the exclusion by filing a form with the county assessor's office.

***Senior Citizen/Disabled Exempt from Property Tax Increase under Prop. 60 and Prop. 90.*** Proposition 60 adopted in November 1986, and Proposition 90, adopted in November 1990, prevent a property tax increase for senior citizens or severely and permanently disabled persons if the such person sells an existing home and buys an equal or lesser valued residence. For Proposition 60 eligibility, both properties must be in the same county; for Proposition 90 eligibility, the county in which the replacement residence is located must have adopted an ordinance to participate in the program.

***Property Tax Payment Dates.*** Property taxes are due on November 1st and February 1st, but are payable without penalty until December 10th and April 10th. There is a 10% penalty on a delinquent installment. Taxes due upon real property are liens against the real property. After 5 years, if the property taxes have not been paid, the property is tax dedeed to the State.

***Readjusting Property Taxes to Reflect Current Property Values.*** The amount of property tax paid is based on current property values; however, most counties in Southern California have chosen not to voluntarily reassess even though property values have dropped significantly over the past few years. The burden has been placed on property owners to file for reassessment and prove a lower current market value. Services are available to assist in this reassessment process.

*This complimentary newsletter is intended to provide general information. Because of the complexities and constant changes in the law, it is important to seek professional advice before acting on any of the matters covered herein.*

