



CALIFORNIA FARM BUREAU FEDERATION

GOVERNMENTAL AFFAIRS DIVISION

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January 7, 2021

Honorable Antonio Vazquez
Chair, State Board of Equalization
621 Capitol Mall, Suite 2100
Sacramento, CA 95814



Public Comment

From: Robert Spiegel

Agenda Item: M1a1. Legal Analysis of
Current Law & Applicable Guidance

Meeting Date: 01/14/21

Re: Proposition 19 (2020): Implementation and Interpretation Related to Family Farms

Dear Chair Vazquez:

The California Farm Bureau Federation (“Farm Bureau”) is the state’s largest farm organization, working to protect family farms and ranches on behalf of its nearly 34,000 members statewide and as part of a nationwide network of more than 5.5 million members. Organized 100 years ago as a voluntary, nongovernmental and nonpartisan organization it advances its mission throughout the state together with its 53 county Farm Bureaus. Farm Bureau has reviewed the guidance Letter to County Assessors (LTA) relative to the reassessment provisions provided in *Proposition 19 (2020): The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act*. It is the opinion of Farm Bureau that the interpretation contained in the LTA is flawed and does not accurately represent the provisions relating to family farms. This correspondence will specifically address the *Parent-Child and Grandparent-Grandchild Exclusion* as it applies to family farms.

Family Home versus Family Farm with Principal Residence

As is correctly stated, beginning on and after February 16, 2021, section 2.1(c) of article XIII A of the California Constitution provides that the terms *purchased* and *change in ownership* do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, if the property continues as the family home of the transferee.

However, the LTA provides the following interpretation:

A “family home” also includes a family farm that contains a principal residence.

This is an inaccurate interpretation of the initiative. As is provided for in section 2.1(c)(3):

“[...] For purposes of this paragraph, and reference to a ‘family home’ in paragraph (1) or (2) shall be deemed to instead refer to a family farm.”

There is no requirement provided by the language of the initiative that unequivocally states that a *family home* must **definitively** include a family farm that contains a principal residence. The aforementioned section provides that all references to *family home* be replaced with the term *family farm*, not in addition to.

For reference, Section 2.1 (c)(1) is provided in full below with the term *family home* replaced with *family farm*:

(1) *For purposes of subdivision (a) of Section 2, the terms “purchased” and “change in ownership” do not include the purchase or transfer of a **family farm** of the transferor in the case of a transfer between parents and their children, as defined by the Legislature, if the property continues as the **family farm** of the transferee. This subdivision shall apply to both voluntary transfers and transfers resulting from court order or judicial decree...*

As the term *family home* is replaced, so too is the qualifying reference to Section 2.1(e)(3) relative to *principal residence*. The term *family farm* is provided its own definition in section 2.1(e)(2) which states:

(2) *“Family farm” means any real property which is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is defined in Section 51201 of the Government Code as that section read on January 1, 2020.*

As such, the term *family home* is also defined separately in Section 2.1(e)(3):

(3) *“Family home” has the same meaning as “principal residence,” as that term is used in subdivision (k) of Section 3 Article XIII.*

The definitions are provided as separate and distinct elements of the initiative. The LTA has, instead, generated a new interpretation of family home that is not provided by the language of the initiative. By combining the separate definitions and applying the principal residence component of a family home to also apply to the family farm, it will result in potentially thousands of agricultural parcels that do not contain a principal residence being reassessed to full market value upon transfer. As such, farms and the prime farmland utilized for growing more than 400 different commodities in California will cease to exist.

Under Proposition 19, the transfer of a *family farm* from parent to child does not constitute a change in ownership triggering reassessment if the property continues its use as a family farm of the child. In other words, as long as the real property is under cultivation, or is being used for pasture or grazing, or for the production of any agricultural commodity, the transfer is exempted from reassessment. The trigger is not whether the property contains a principal residence but whether the farm continues to be utilized for agricultural purposes.

As such, Farm Bureau requests that the LTA be modified to reflect that a family farm need not have a principal residence. It's imperative that the LTA acknowledge that under Proposition 19, the transfer of family farm from parent to child does not constitute a change in ownership triggering reassessment if the property continues its use as a family farm of the child and regardless of whether or not the property contains a principal residence.

Reassessment Provisions for Multiple Parcel Properties

A determination as to the proper appraisal unit for multiple-parcel properties will become more complex with Proposition 19. For California's agricultural properties specifically, these ranches and farms frequently comprise several parcels that could be sold either individually or as one unit. It is Farm Bureau's interpretation that Proposition 19 requires each individual parcel to be treated separately and valued separately as provided by the initiative's value test in Section 2.1(c)(1)(A) and (B).

Prior to the passage of Proposition 19, existing law provided a cumulative limitation on transfer value for all property other than a principal residence. Each person could transfer up to \$1 million of real property to any combination of parents or children. This was a lifetime cumulation attached to the transferor and once maximized, any additional transfer of other real property would result in a reassessment at fair-market value.

Proposition 19 eliminates the cumulative transfer limitation per individual via Section 2.1(c)(1)(A)(B)(i)(ii) and establishes a new valuation of real property being transferred, or the value test. As family farms are eligible for the exclusion, it's crucial that the exclusion be applied to each parcel under transfer to determine whether a parcel faces any new, additional tax liability. As it's possible that some agricultural parcels may not exceed the formulaic determination provided by the value test in Section 2.1(c)(1)(B)(i), this would potentially allow some agricultural parcels to transfer without triggering reassessment, and provide the property tax relief afforded specifically to California's family farmers and ranchers.

As such, Farm Bureau requests that the value test be applied to each parcel being transferred in order to insure that specific exclusionary protections are provided to the state's farming and ranching families.

In closing, Farm Bureau continues to receive numerous inquiries as to how Proposition 19 will be implemented and what impacts the initiative may have on California's farming and ranching families. It's urgent that the Board of Equalization further clarify and address the issues raised in this letter prior to any additional tax burdens being placed on our community. Farm Bureau intends to stay engaged with all stakeholders as this process continues.

Respectfully,



Robert Spiegel
Governmental Affairs Advocate
California Farm Bureau Federation

Cc: The Honorable Mike Schaefer, Vice Chair, BOE Member District 4
The Honorable Ted Gaines, BOE Member District 1
The Honorable Melia Cohen, BOE Member District 2
Assemblymember Rob Rivas, Chair, Assembly Agriculture Committee
Assemblymember, Devon Mathis, Vice Chair, Assembly Agriculture Committee
Assemblymember James Gallagher
Assemblymember Megan Dahle
Assemblymember Frank Bigelow
Senator Andreas Borgeas, Chair, Senate Agriculture Committee
Senator Melissa Hurtado, Vice Chair, Senate Agriculture Committee
Senator Brian Dahle
Ms. Yvette Stowers, Deputy State Controller for Taxation
Ms. Brenda Fleming, BOE Executive Director
Ms. Catherine Taylor, Chief of Board Proceedings

From: January 14-15, 2021 Board Meeting-Public Comment
To: Meeting Info
Subject: [External] January 14-15, 2021 Board Meeting-Public Comment
Date: Tuesday, January 12, 2021 9:33:07 AM

Name: Robert Spiegel

E-mail Address:

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Agenda Item(s):

M1a1. Legal Analysis of Current Law & Applicable Guidance

Comment:

January 7, 2021 Honorable Antonio Vazquez Chair, State Board of Equalization 621 Capitol Mall, Suite 2100 Sacramento, CA 95814 Re: Proposition 19 (2020): Implementation and Interpretation Related to Family Farms Dear Chair Vazquez: The California Farm Bureau Federation (“Farm Bureau”) is the state’s largest farm organization, working to protect family farms and ranches on behalf of its nearly 34,000 members statewide and as part of a nationwide network of more than 5.5 million members. Organized 100 years ago as a voluntary, nongovernmental and nonpartisan organization it advances its mission throughout the state together with its 53 county Farm Bureaus. Farm Bureau has reviewed the guidance Letter to County Assessors (LTA) relative to the reassessment provisions provided in Proposition 19 (2020): The Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act. It is the opinion of Farm Bureau that the interpretation contained in the LTA is flawed and does not accurately represent the provisions relating to family farms. This correspondence will specifically address the Parent-Child and Grandparent-Grandchild Exclusion as it applies to family farms. Family Home versus Family Farm with Principal Residence As is correctly stated, beginning on and after February 16, 2021, section 2.1(c) of article XIII A of the California Constitution provides that the terms purchased and change in ownership do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, if the property continues as the family home of the transferee. However, the LTA provides the following interpretation: A “family home” also includes a family farm that contains a principal residence. This is an inaccurate interpretation of the initiative. As is provided for in section 2.1(c)(3): “[...] For purposes of this paragraph, and reference to a ‘family home’ in paragraph (1) or (2) shall be deemed to instead refer to a family farm.” There is no requirement provided by the language of the initiative that unequivocally states that a family home must definitively include a family farm that contains a principal residence. The aforementioned section provides that all references to family home be replaced with the term family farm, not in addition to. For reference, Section 2.1 (c)(1) is provided in full below with the term family home replaced with family farm: (1) For purposes of subdivision (a) of Section 2, the terms “purchased” and “change in ownership” do not include the purchase or transfer of a family farm of the transferor in the case of a transfer between parents and their children, as defined by the Legislature, if the property continues as the family farm of the transferee. This subdivision shall apply to both voluntary transfers and transfers resulting from court order or judicial decree... As the term family home is replaced, so too is the qualifying reference to Section 2.1(e)(3) relative to principal residence. The term family farm is provided its own definition in section 2.1(e)(2) which states: (2) “Family farm” means any real property which is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is defined in Section 51201 of the Government Code as

that section read on January 1, 2020. As such, the term family home is also defined separately in Section 2.1(e)(3): (3) “Family home” has the same meaning as “principal residence,” as that term is used in subdivision (k) of Section 3 Article XIII. The definitions are provided as separate and distinct elements of the initiative. The LTA has, instead, generated a new interpretation of family home that is not provided by the language of the initiative. By combining the separate definitions and applying the principal residence component of a family home to also apply to the family farm, it will result in potentially thousands of agricultural parcels that do not contain a principal residence being reassessed to full market value upon transfer. As such, farms and the prime farmland utilized for growing more than 400 different commodities in California will cease to exist. Under Proposition 19, the transfer of a family farm from parent to child does not constitute a change in ownership triggering reassessment if the property continues its use as a family farm of the child. In other words, as long as the real property is under cultivation, or is being used for pasture or grazing, or for the production of any agricultural commodity, the transfer is exempted from reassessment. The trigger is not whether the property contains a principal residence but whether the farm continues to be utilized for agricultural purposes. As such, Farm Bureau requests that the LTA be modified to reflect that a family farm need not have a principal residence. It’s imperative that the LTA acknowledge that under Proposition 19, the transfer of family farm from parent to child does not constitute a change in ownership triggering reassessment if the property continues its use as a family farm of the child and regardless of whether or not the property contains a principal residence. Reassessment Provisions for Multiple Parcel Properties A determination as to the proper appraisal unit for multiple-parcel properties will become more complex with Proposition 19. For California’s agricultural properties specifically, these ranches and farms frequently comprise several parcels that could be sold either individually or as one unit. It is Farm Bureau’s interpretation that Proposition 19 requires each individual parcel to be treated separately and valued separately as provided by the initiative’s value test in Section 2.1(c)(1)(A) and (B). Prior to the passage of Proposition 19, existing law provided a cumulative limitation on transfer value for all property other than a principal residence. Each person could transfer up to \$1 million of real property to any combination of parents or children. This was a lifetime cumulation attached to the transferor and once maximized, any additional transfer of other real property would result in a reassessment at fair-market value. Proposition 19 eliminates the cumulative transfer limitation per individual via Section 2.1(c)(1)(A)(B)(i)(ii) and establishes a new valuation of real property being transferred, or the value test. As family farms are eligible for the exclusion, it’s crucial that the exclusion be applied to each parcel under transfer to determine whether a parcel faces any new, additional tax liability. As it’s possible that some agricultural parcels may not exceed the formulaic determination provided by the value test in Section 2.1(c)(1)(B)(i), this would potentially allow some agricultural parcels to transfer without triggering reassessment, and provide the property tax relief afforded specifically to California’s family farmers and ranchers. As such, Farm Bureau requests that the value test be applied to each parcel being transferred in order to insure that specific exclusionary protections are provided to the state’s farming and ranching families. In closing, Farm Bureau continues to receive numerous inquiries as to how Proposition 19 will be implemented and what impacts the initiative may have on California’s farming and ranching families. It’s urgent that the Board of Equalization further clarify and address the issues raised in this letter prior to any additional tax burdens being placed on our community. Farm Bureau intends to stay engaged with all stakeholders as this process continues.