

2018 SUPPLEMENT TO PROBATE IN CALIFORNIA

This is a supplement with the 2018 changes to the book Probate in California.

New transfer on death deed

Page 21 deals with transfer of assets directly to parties outside of a will. California has added a new procedure, effective in 2016.

The new law creates a revocable transfer on death (TOD) and allows a homeowner to transfer to a named beneficiary real property upon the owner's death, without having to go through probate.

The law applies only to a residential property of:

1. One to four units,
2. A condominium, or
3. A single agricultural parcel of not more than 40 acres improved with a single family residence.

This revocable TOD deed must be signed, dated, and acknowledged before a notary public and must be recorded within 60 days after signing. The deed does not affect current ownership rights. It also is an alternative to putting someone on the property as a joint tenant, which then gives that joint tenant certain rights regarding the property, and the joint tenant cannot be removed from title to the property without his or her signature on a deed.

This deed can be revoked without the signature of the named beneficiary at any time.

2018 increase in estate tax exemption

The estate tax exemption through the book lists the exemption for 2015 (\$5,430,000). This exemption was indexed for inflation and automatically increased every year. The exemption for someone dying in 2016 was \$5,450,000 and the exemption for someone dying in 2017 was \$5,490,000.

The exemption was dramatically changed effective in 2018 to \$11,200,000 per decedent. This amount is indexed to increase with inflation until the year 2025. Unless changed in the future by Congress, this exemption amount will revert to the 2017 exemption amount (\$5,490,000), subject to an inflation adjustment. The tax rate for assets owned above the exemption amount has not changed and remains at a tax rate of 40%

2018 increase in generation-skipping transfer tax exemption

Page 80 explains the potential generation-skipping transfer tax and the exemption, which was \$5,430,000 in 2015. This exemption is the same as the estate tax exemption and is also indexed for inflation and increases every year. For persons dying in 2016 the exemption was \$5,450,000 and for persons dying in 2017 it was \$5,490,000.

This amount has also increased, from 2018 until 2025 to \$11,200,000 for persons dying in 2018 and is indexed to increase every year until 2025.

2018 increase in gift tax exemption

The 2018 gift tax exemption for annual gifts, before they have to be reported and a gift tax return filed, has been increased to \$15,000 per donee.

The lifetime gift tax exemption has, like estate tax and generation-skipping tax exemptions, been increased. It is effective in 2018 to \$11,200,000 per donor, indexed for inflation.

2018 estate income tax rates

The federal income tax rates, effective in 2018 for income kept by an estate and taxed to the estate and not to estate beneficiaries is 10-37%. The rate for the State of California is 1-13.2%

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