

Date of Hearing: June 8, 2026

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

SB 974 (Seyarto) – As Amended March 25, 2026

Majority vote. Fiscal committee.

SENATE VOTE: 37-0

SUBJECT: Property taxation: change in ownership: generational transfers: special needs trusts

SUMMARY: Provides that a "transfer" includes, but is not limited to, a special needs trust for the purposes of intergenerational transfers.

EXISTING LAW:

- 1) Provides that all property is taxable unless otherwise stipulated by the California Constitution or the laws of the United States. (California Constitution, Article XIII, Section 1.)
- 2) Limits the maximum amount of *ad valorem* property taxation to 1% of the full cash value of the property. Generally, the Constitution restricts the full cash value of a property to the assessed value upon a change of ownership in, or new construction on, the property. This value is referred to as the base year value, which may be adjusted upwards for inflation at no more than 2% annually. (California Constitution, Article XIII, Sections 1 and 2.)
- 3) Excludes from the definition of change in ownership the purchase or transfer of a family home or family farm to a decedent's eligible child or grandchild. The exclusion is limited to \$1 million of the increase in assessed value upon the purchase or transfer over the property's adjusted base year value; any additional assessed value is subject to taxation pursuant to existing law. To qualify, a decedent's child or grandchild, also termed a transferee, must occupy the property as their principal place of residence and claim the homeowner's or disabled veteran's exemption within one year of the transfer. Additionally, the transferee must file with the State Board of Equalization (BOE) claiming eligibility for the exclusion, generally within three years after the date of the purchase or transfer of the eligible real property, as conditioned. This exclusion applies to both voluntary transfers and transfers resulting from a court order or judicial decree, and is often referred to as the "intergenerational transfer exclusion." The qualifying intergenerational transfer of the beneficial ownership by medium of an *inter vivos* or a testamentary trust is eligible for the intergenerational transfer exclusion. (California Constitution, Article XIII, Section 2.1. and Revenue and Taxation Code (R&TC) Section 63.2.)
- 4) Authorizes, under the Trust Law, the creation of a trust via the following methods:
 - a) A declaration by the owner of the property that the owner holds the property as a trustee;

- b) A transfer of property by the owner during the owner's lifetime to another person as trustee;
- c) A transfer of property by the owner, by will or by other instrument taking effect upon the death of the owner, to another person as trustee;
- d) An exercise of power of appointment to another person as trustee; or,
- e) An enforceable promise to create a trust.

The statute imposes additional requirements that must be met when forming a trust, and provides that the Trust Law applies to all trusts, regardless of commencement, with certain exclusions. Finally, statutory provisions stipulate that the law of this state regarding trusts is common law, except as modified by statute. (Probate Code Section 15000 *et. seq.*)

- 5) Delineates the process for a court to order the payment of money of a minor or a person with a disability into a special needs trust, and requires the court to follow those procedures. (Probate Code Section 3604.)

FISCAL EFFECT: The BOE estimates no revenue impact resulting from this bill.

COMMENTS:

- 1) The author has submitted the following statement in support of this bill:

SB-974 provides important clarification to Proposition [(Prop.)] 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 severely disabled loved ones are not unfairly penalized with property tax reassessment.

- 2) The BOE, writing in support of this bill, states, in part:

SB 974 is a clarification bill which revises the definition of "transfer" and specifies that an inter vivos or testamentary trust includes, but is not limited to, a Special Needs Trust. This clarification is needed to protect individuals who are severely disabled and covered by an [Special Needs Trust] from potentially suffering reassessment on their homes.

The Legislature has ensured several times that administrative uncertainties and legal vagueness should not prevent individuals from meeting [Prop.] 19 requirements. Individuals who otherwise would inherit a property but cannot due to the needs of an [Special Needs Trust] should not lose their [Prop.] 19 exclusion due to circumstances outside their control.

- 3) Committee Staff Comments:

- a) *ACA 11/Prop. 19:* In 2020, the Legislature enacted ACA 11, which voters subsequently approved in November of that year as Prop. 19. Prop. 19 dramatically restructured a number of provisions related to the retention of base year values for properties with certain eligible owners. Prior to Prop. 19, intergenerational base year value transfers were far more generous, allowing the base year value of a decedent's property to transfer to their qualifying child or grandchild, regardless of the property's fair market value if the

property was used as the principal place of residence for both the transferor and transferee. Additionally, \$1 million of the aggregate full cash value of all other real property could be excluded from assessment resulting from a change in ownership. Prop. 19 restricted this exclusion, such that only \$1 million above the principal residence's taxable value just prior to transfer is excluded. Any increase in the amount of taxable value above \$1 million is added to the adjusted base year value of the property, and the resulting sum becomes the property's new base year value.

- b) *Disposition of a decedent's estate:* Generally, a deceased person's assets are distributed through a will or by intestate succession. Usually, assets are subject to probate administration, though there are various mechanisms that allow for the transfer of property without undergoing the formal process. These include trusts and small estates, among others. There are various types of trusts and Section 401 of the Assessors' Handbook lists four overarching types of trust. *Inter vivos*, or living, trusts take effect during the life of the trustor, the person who establishes the trust and transfers assets into the trust. *Inter vivos* trusts may be revocable or irrevocable. A revocable trust is created during the life of the trustor, and the trustor retains beneficial ownership and control of the property in the trust. An irrevocable trust requires the trustor to forgo control of the property transferred into the trust and the trustor may not revoke or amend the trust after establishment. Finally, a testamentary trust is created by will and takes effect only upon the death of the trustor. Testamentary trusts may only be irrevocable¹.
- c) *Special needs trust:* Special needs trusts are established for the purposes of allowing disabled persons to maintain eligibility for means-tested public assistance programs, despite having assets in excess of eligibility thresholds for those programs. In a special needs trust, the disabled person, or beneficiary, does not hold legal title to the trust assets. Rather, the trustee holds title and ownership of the property for the beneficiary. Thereby, the disabled person does not exceed maximum value thresholds for asset ownership under programs like Social Security Income or Medicaid.
- d) *This bill:* As currently drafted, this bill would provide that, without limitation, a special needs trust is an *inter vivos* trust or testamentary trust that is an eligible medium of transfer under the intergenerational transfer exclusion. This bill does not provide a definition of a special needs trust.
- e) *Clarification or duplication:* Existing law provides that *inter vivos* trusts and testamentary trusts are eligible mediums of transfer under the intergenerational transfer exclusion. Additionally, existing law provides that the intergenerational transfer exclusion applies to both voluntary transfers and transfers resulting from a court decree. While a special needs trust is not specifically delineated, it would appear that existing law already authorizes a special needs trust as an eligible form of transfer. The author would, however, like to provide abundant clarity in the statute that a special needs trust qualifies.
- f) *Suggested Committee amendment:* Given the intent of the author is to provide clarity in existing law, it may be prudent to stipulate a definition in this bill. As such, the Committee may wish to consider amending this bill by striking, on Page 6, lines 16-17,

¹ BOE, *Change in Ownership, Assessors' Handbook, Section 401*, published September 2010, <https://www.boe.ca.gov/proptaxes/pdf/ah401.pdf>, accessed June 2026.

the phrase "including, but not limited to, a special needs trust" and inserting after the sentence ending on Page 6, line 16, the sentence "For the purposes of this subparagraph, a special needs trust established pursuant to Probate Code Section 3604 shall be considered an eligible medium of transfer."

- g) *Prior legislation:* SB 539 (Hertzberg), Chapter 427, Statutes of 2021, was enacted to implement the provisions of Prop. 19, and clarified certain administrative uncertainties. Included in these provisions was the authorization that *inter vivos* and testamentary trusts are eligible mediums of transfer under the intergenerational transfer exclusion.

REGISTERED SUPPORT / OPPOSITION:

Support

Arc and United Cerebral Palsy California Collaboration, The
Association of Regional Center Agencies
California Board of Equalization
California Taxpayers Association
Howard Jarvis Taxpayers Association
Temecula, City of
Peter Aldana, Assessor, County Clerk, and Recorder of Riverside County

Opposition

None on file

Analysis Prepared by: Harrison Bowlby / REV. & TAX. / (916) 319-2098