FOR WIDOWS AND WIDOWERS IN CALIFORNIA

The Surviving Spouse's Guide to the House

What actually has a deadline, what can wait, and the two tax rules that decide how much you keep.

> **Read this part first.** Almost nothing about the house has to be decided this month. The pressure you are feeling is real, but most of it is not coming from a deadline. There are exactly four clocks that matter, and only one of them starts fast. Everything else on this list can wait until you are ready.

The four clocks that are actually running

Clock	How long	What happens if you miss it
Trust notification Prob. Code §16061.7(f)	60 days from the date of death, if there is a revocable trust	This is the successor trustee's job, not yours — unless you are also the trustee. Hand it to an attorney. Beneficiaries then get 120 days from service to contest.
Change in Ownership Statement Form BOE-502-D	150 days from death when there is *no* probate — including trust-held property. If there is a probate, it goes in with the inventory and appraisal instead.	The penalty is actually triggered 90 days after the assessor mails you a written request, not on day 150. The real exposure is escape assessments reaching back eight rolls.
The $500,000 exclusion IRC §121(b)(4)	2 years from the date of death	You drop from a $500,000 capital gains exclusion to $250,000. On a long-held Bay Area home this single line is often worth $50,000–$75,000 in federal tax.
Property tax exemptions	Varies by county — call the assessor	The homeowners' exemption and any veterans' exemption may need to be re-filed in your name. Left alone, it quietly raises your bill.

The two federal rules that decide what you keep

Rule 1 — the $500,000 exclusion, and its two-year fuse

If you sell within **two years of the date of death** and have not remarried, you keep the full **$500,000** exclusion on your gain, even though you are filing as a single person. That is IRC §121(b)(4). After two years it drops to $250,000.

The clock runs from the **date of death** — not from the end of that calendar year, and not from when the estate settled. People lose this by assuming they have until the end of year two.

A separate rule, §121(d)(2), lets you count your late spouse's years of ownership and use toward the two-of-five-year test. That one has **no time limit**. So even past the two-year mark you still qualify for the exclusion — you just get the smaller one.

Rule 2 — the step-up in basis, and why California is unusually generous

Your taxable gain is measured from your *basis*, not from what you paid decades ago. At death, basis resets to fair market value. How much resets depends on how you held title:

How the home was held	How much of the basis steps up	IRS Pub 523 example
Joint tenancy (JTWROS)	Half — your late spouse's half only	$50,000 original basis, $100,000 value at death → new basis **$75,000**
California community property	**100%** — the entire property, both halves	Same figures → new basis **$100,000**

> **This is the single most valuable paragraph in this guide.** Under IRC §1014(b)(6), California community property gets a **full** step-up at the first death — and the statute says this applies whether or not the estate is required to file a return. On a home bought in 1978 for $85,000 and worth $2.1M today, the difference between a half step-up and a full one is roughly a million dollars of taxable gain. Have someone actually read your deed. Vesting language written decades ago is often wrong, and it is sometimes fixable.

Things people worry about that are not actually problems

"The bank will call the loan."

Generally no. The Garn-St Germain Act, 12 U.S.C. §1701j-3(d), bars a lender from enforcing a due-on-sale clause when a home transfers to a surviving spouse who was a joint owner. You will need to send the servicer a death certificate and get the account retitled, but the mortgage does not become due because your spouse died.

"I have to sell to settle the estate."

Usually not, and not quickly. If the home was held in a revocable trust it does not go through probate at all. Even where probate applies, the house is rarely the forcing item.

"I've missed something and it's too late."

Most California filings punish lateness with lost retroactivity, not disqualification. Filing late typically means relief starts from the year you filed rather than the year you were entitled to it. That is a cost, not a catastrophe. Two genuine exceptions: the two-year §121(b)(4) window, and Prop 19's one-year move-in requirement for inherited property.

If you are 55 or older and thinking about moving

Proposition 19 lets you carry your existing property-tax base to a replacement home anywhere in California, up to three times. The mechanics matter enormously:

- You must be 55+ **when the original home sells** — age is tested at the sale, not the purchase.
- You get **two years**, in either direction.
- **Sell first.** If you buy before you sell, the value threshold drops to 100% of the original's value and you pay full market-rate property tax until the second closing, with no refund.
- Only the **excess** above the threshold is added to your base — never the full price difference.
- File form **BOE-19-B** in the county where the replacement home is, within three years. Escrow does not do this for you.

Run your own numbers at **lancehulseybroker.com/prop-19-calculator/**.

A 90-day sequence, if you want one

Weeks 1–4 — only what is genuinely urgent

- ■ Order 8–10 certified death certificates. You will need more than you expect.
- ■ Notify the mortgage servicer and send a death certificate. Ask for the account to be retitled.
- ■ Call the homeowner's insurer. Confirm coverage continues and update the named insured.
- ■ Locate the trust, all amendments, and the deed — check exactly how title is vested.

- If there is a trust and you are the successor trustee, get the §16061.7 notice to an attorney. That one is on a 60-day clock.

Weeks 5–12 — the paperwork that protects money

- File BOE-502-D with the county assessor if there is no probate (150 days from death).
- Order a date-of-death appraisal. Establishes your stepped-up basis; costs a few hundred dollars and can be worth six figures. Do this even if you have no intention of selling.
- Ask the assessor whether the homeowners' exemption needs re-filing in your name.
- Give your CPA the date of death and the appraisal, and ask them to confirm your §121 window.
- Gather improvement receipts — anything that raised the basis.

Months 4–24 — decisions, on your schedule

- Decide whether you want to stay. Not whether you can afford to — whether you want to.
- If selling: understand that the §121(b)(4) two-year window is the one hard deadline.
- If moving and 55+: sequence the Prop 19 transfer, and sell before you buy.
- If staying: confirm the property tax bill reflects every exemption you are entitled to.

> **One honest note.** The most common mistake I see is not a tax mistake. It is selling the house in month three because everyone kept asking about it. Grief is a bad time to make an irreversible six-figure decision, and almost none of this is as urgent as it feels. If someone is pressuring you to list right now, ask them which specific deadline they mean.

Before you rely on any of this

This guide is general education, not legal, tax, or investment advice. I am a real estate broker — not an attorney and not a CPA. Deadlines and dollar figures change, and your situation has facts this guide cannot know. Confirm anything that matters with your attorney and your CPA before you act on it.

Questions, or want this run against your actual numbers? That conversation is free and there is no obligation attached to it.

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