Equity Buyout in California - Refinance vs. Purchase

Scenario Overview

- - Property is in an irrevocable trust
- - There are multiple beneficiaries
- - One beneficiary wants to retain the property by buying out the others
- - No parent/child exclusion under Prop 19 — so the property tax base will reset*
- - The transaction must reflect fair market value

Key Differences: Refinance vs. Purchase Buyout

	Refinance (Cash-Out Buyout)	**Purchase**
Title Ownership	Borrower must be on title before loan funds. An attorney or 3rd party can assist with adding them to title prior to refinance.	Buyer acquires title from the trust via recorded transfer
Loan Type	Refinance with cash-out or borrower funds to pay other beneficiaries their share, funds payable to property owner.	Purchase loan, with down payment and escrow required
Appraisal	Typically required to determine property value for lender and beneficiaries	Required by lender and escrow for fair market validation
Title Insurance	Lender's title policy is required; Owner's policy could be purchased.	Full lenders and owner's title policies required
Escrow Process	Full refinance escrow including fund disbursement to beneficiaries, if on title, based on % of ownership.	Full purchase escrow, including settlement statement (HUD/CD)
Property Taxes (Prop 19)	Reassessment occurs, as title transfers outside parent/child exclusions	Same reassessment rules apply; new tax base is market value
CA Tax Withholding	May be avoided if structured as a refi and trust files proper exemption paperwork	3.33% state withholding applies unless exemption is filed (Form 593).
Documentation	Trust cert, title chain, distribution agreement, payoff calculation. Full trust, amendments.	Full purchase contract, trust sale documents, lender disclosures

Loan Terms	Refi rates and pricing, may have fewer points and lower closing costs	Purchase terms may vary, often higher points or costs
Occupancy	Prop 19 only applies from owner occupant to owner occupant.	

When Is Refinance Preferred?

- The buying beneficiary is on title or can be added in advance by attorney or title firm
- Other beneficiaries agree to accept proceeds through refinance
- The trust allows internal buyouts or provides flexible instructions
- The borrower has sufficient equity to fund the buyout
- Withholding and legal fees need to be minimized

When Is a Purchase Advisable or Required?

- The acquiring beneficiary is not on title, and the trust prefers a clear sale
- The trust documents or fiduciary require a formal transaction
- One or more beneficiaries want full title transfer and escrow protections
- Use of equity as down payment is preferable for loan structure
- The transaction needs to reflect arms-length value for legal/tax reasons

California Property Tax & Withholding Considerations

- Prop 19 eliminates most parent/child and grandparent/grandchild exclusions.
- Both refinance and purchase will trigger reassessment — the new taxable value is based on market price or appraised value.
- A Form 593 may be required for state withholding when the trust sells its interest—commonly 3.33% of gross sale price unless exemption is filed.
- Exemption if deceased lived in property. Tax pro's may use value at TOD to avoid gain.
- *Minimizing property tax reassessment is accomplished with financing to an irrevocable trust as a business purpose loan. Details are specific to each transaction.

This document is intended for informational purposes only and should not be construed as legal, tax, or financial advice. The scenarios and comparisons outlined herein are general in nature and may not apply to your specific circumstances. Rules related to real estate transfers, property tax reassessment, and California withholding requirements are subject to change and interpretation.

***We are not tax or legal professionals**, and we strongly recommend that you consult with your own tax advisor, legal counsel, and/or estate planning professional before making any decisions. Each transaction may involve unique considerations, and it is your responsibility to perform due diligence and seek appropriate guidance.*