

BOARD OF EQUALIZATION
PROPERTY TAX RULES

Division 1. State Board of Equalization-Property Tax
Chapter 2. Assessment
Article 3. Exemptions and Immunities

Rule 140.2. Requirements for Supplemental Clearance Certificate for Limited Partnership for Welfare Exemption for Low-Income Housing Properties.

Authority: Section 15606, Government Code.

Reference: Sections 214, 214.01, 254.5 and 254.6, Revenue and Taxation Code.

(a) A limited partnership in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company, meeting the requirements of Regulation 140.1, that owns low-income housing property for which it will claim the welfare exemption shall file with the State Board of Equalization an application for a Supplemental Clearance Certificate for each low-income housing property.

(b) A Supplemental Clearance Certificate may be granted only if the managing general partner has already been granted an Organizational Clearance Certificate by the State Board of Equalization, as required under Revenue and Taxation Code section 254.6.

(c) In order to qualify for a Supplemental Clearance Certificate, the general partners of the limited partnership, including the managing general partner, must certify under penalty of perjury under the laws of the State of California, that:

(1) The acquisition, construction, rehabilitation, development, or operation of the property, or any combination of these factors, is financed with low-income housing tax credits or government financing, as defined in Regulation 140;

(2) There is an enforceable and verifiable regulatory agreement or recorded deed restriction, as defined in Regulation 140, that restricts all or a portion of the property's usage for rental to lower income households and the units designated for use by lower income households are continuously available to or occupied by lower income households at rents that do not exceed those prescribed by the terms of a regulatory agreement or recorded deed restriction, as defined in Regulation 140 or to the extent that none are provided in the regulatory agreement or recorded deed restriction, at rents that do not exceed those prescribed by section 50053 of the Health and Safety Code;

(3) Funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units to be occupied by lower income households;

(4) The managing general partner meets the requirements of Regulation 140.1; and

(5) All of the information provided as part of the application for the Supplemental Clearance Certificate, including any accompanying statements or documents, is true, correct, and complete to the best of the knowledge and belief of the person(s) signing the application.

(d) The following information and documents shall be provided in or with the application for a Supplemental Clearance Certificate:

(1) Legal name of the limited partnership;

(2) Legal name of the managing general partner of the limited partnership, its corporate identification number and mailing address, and the date that it became the managing general partner of the limited partnership;

(3) Name, title, telephone number, and e-mail address of person signing the application for the Supplemental Clearance Certificate;

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(4) The Organizational Clearance Certificate number and the date of issuance to the managing general partner. If an Organizational Clearance Certificate has not been issued to the managing general partner, an application for an Organizational Clearance Certificate must be filed by the managing general partner;

(5) Complete address of the property for which the limited partnership is seeking the welfare exemption, including the zip code, and the date the limited partnership acquired the property;

(6) Fiscal year for which the application is made;

(7) List of any additions or deletions of general partners in the limited partnership, if any, after its formation;

(8) For California limited partnerships, a copy of Secretary of State form LP-1, Certificate of Limited Partnership, and, if applicable, Secretary of State form LP-2, Amendment to Certificate of Limited Partnership; for foreign limited partnerships, a copy of the formation document, and, if applicable, amendment documents, filed in the state or country of formation;

(9) Copy of the regulatory agreement with a government agency, or a copy of a recorded deed restriction which verifies or evidences the receipt of low-income housing tax credits or government financing, as defined in Regulation 140; and

(10) Copy of the grant deed, or if the land is not owned by the limited partnership, documents evidencing the limited partnership's ownership of the improvements.

(e) The limited partnership shall include a copy of the Supplemental Clearance Certificate with its welfare exemption claim filed with the assessor of the county in which the property is located.

(f) In the event that the general partner designated in the limited partnership agreement no longer meets the definition of managing general partner, as defined in Regulation 140.1, or the managing general partner withdraws from the partnership, the limited partnership shall report such event to the State Board of Equalization and the assessor of the county in which in property is located no later than the next succeeding annual filing deadline for the welfare exemption claim.

History: Adopted March 28, 2006, effective July 23, 2006.