



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION  
1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)

(916) 445-4982

GEORGE R. REILLY  
First District, San Francisco  
ERNEST J. DRONENBURG, JR.  
Second District, San Diego

WILLIAM M. BENNETT  
Third District, San Rafael

RICHARD NEVINS  
Fourth District, Pasadena

KENNETH CORY  
Controller, Sacramento

DOUGLAS D. BELL  
Executive Secretary

March 23, 1982

No. 82/50

TO COUNTY ASSESSORS:

1982 HOMEOWNER'S EXEMPTION—QUESTIONS AND ANSWERS

Here is an updated version of the questions and answers that reflect the Board's views on administration of the homeowners' exemption. The prior questions and answers were dated April 9, 1975; we have indicated in the margin "NEW" for a new question and "REVISED" where the concept has changed since 1975. Please inform your staff of these additions and revisions. We suggest you follow the information in this guide when processing current claims. Destroy, or mark as superseded, prior year's compilation.

Major amendments in the processing of homeowners' exemptions have occurred since 1975. The changes include:

1. Late filing. The deadline for filing remains 5:00 p.m., April 15, but late filing (for 80 percent of the exemption) is permitted through 5:00 p.m., December 1. The claimant no longer need establish good cause for late filing. See Letter to Assessors' 79/64, dated April 3, 1979.
2. One-time filing. For 1975 and thereafter, only an occupant who either acquired title to an eligible dwelling during the preceding assessment year or is otherwise seeking the exemption on a property not exempted in the prior year need file a claim. Filing before March 1 is permitted if the applicant is the owner of the property and intends to occupy the property by 12:01 a.m. on March 1.
3. Claims not open to public. The homeowners' exemption claim is not a public document. The assessor must provide names of homeowners' exemption recipients to the State Board of Equalization under the provisions of Section 218.5, Revenue and Taxation Code.

Please refer questions concerning the homeowners' exemption to William L. Grommet. His phone number is (916) 445-4982.

Sincerely,

Verne Walton, Chief  
Assessment Standards Division

VW:bjb  
Enclosure  
AL-06-1264A

## INDEX TO THE QUESTIONS AND ANSWERS FOR THE HOMEOWNERS' EXEMPTION

Absence,		Contact for information	X3
Confined to convalescent		Contiguous parcels	G23,S3,V3
home or hospital	G15	Contract of sale	
Employed elsewhere	G18,G20	Agreement of sale	G9
Exchange homes	G19	In escrow	G3
Snowed out	G16	Quit claim deed	G34
Temporarily away	G16	Recordation	G9
Activate claim	G26,S6	Recorded in name of	
Administrator	E14	relative	G8
Advice of Termination	F11	Controller, State	X series
Agent	F7	Convalescent home	G17
Agreement of sale	G9	Cooking facilities	M8
Another real property		Cooperative housing	G7,M series,M6
exemption	V15	Cooperative housing	
Apartments	M6	Information Request,	
Appeal	G37	AH 266D	M6
Assessors' Parcel Number	X series	Co-owners, occupants	F14
Audit homeowners	F11	Corporation	
Audit veterans, deny	V12,V13	Business	G6
		Motel on leased land	G7
Beneficiary of a trust	E4,E7,G14	Nonprofit housing	M6
Blind or disabled veteran	V15	Possessory interest	P1
Board of Supervisors	G37	Wholly owned	G7
Boat	G36,V5	County Board of Supervisors	G37
Both exemptions (home vet)	F10		
Business property	G5,S5	d.b.a. (doing business as)	G5,G6
Buyer has occupancy	G3	December 1, subsequent	F16,V2
		Deed absolute	E4,G34,X1
Cabana	G22	Deed executed, not recorded	G10
Cabin	P2,V14	Deeded to state	G30
Cancel	V16	Defect	F15
Caretaker	G18,G27	Denial, appeal	G37
Certification	X1 to X3	Deposit receipt	G11
Check with other agencies	X1	Disabled veterans' exemption	S12,V series
Claim for credit	G37	Detached dwellings	S9
Claim for refund	G37	Devisee	E8
Claim for reimbursement		Dies	F14,E series, S6
(State Controller)	X series		G35
Claimant died	F2	Disabled veteran	V15
Claimant becomes eligible	F1	Disallow homeowners	F10,G32,V2
Clergyman	G27	Disallow veterans	F10,V12,V13
Commercial property	F9	Divorce	G2
Community apartment	M series	Documentation	G9,G12
Community property	E11	Documented vessel (4%)	G36
Computer match	F11	Duplex – 1 owner	M1
Condominium	C series	Duplex – multiple owners	F3,M2
Confidential information	G13	Duplex – veterans	V7,V10
Confined, hospital,		Duplicate social security	
convalescent	G17	number	X2
Conservator	E14,E15	Dwelling definition	V5

INDEX TO THE QUESTIONS AND ANSWERS FOR THE HOMEOWNERS' EXEMPTION (Contd.)

80% exemption	F13,F16,V16	Irrevocable trust	E6
Employment requires absence	G18		
Enforceable restriction	G25	Joint tenancy	E12,E13,F14, M2,S6
Escape assessment	X2		
Escrow	G3,G4	Land is leased	C4, V
Estate of	E14,E17,F2	Land owned by another	E3, G12
Exchange homes	G19	Last name, 5 characters	X series
Exclusive occupancy	C1,C2	Late filing	
Executor of an estate	E14,E17	Claim filed timely in	
Exemption of roll	F6	another county	F16
Exemption, subvention		80 percent filed April 16-	
certif.	X series	Dec. 1	F13
Extension, time to file	F7	Filed after April 15	F1
		Reasons given, not appli-	
Failed to sign	F7	cable	F5
Farm	S4	Leased	
Federal land	P series, V14	Away, leased to other	
File for claimant	F series, G14	persons	G29
File, homeowners'		Away, not leased	G15
and veterans	F10	Farm, leased for grazing	S4
File separate claims	M series, S6, S10	Land is leased	C4
		Leased, rented to others	S9
Filed late – 80%	F13	Motel, on leased land	M9
Filed prior to March 1	F1	Motel, rooms for rent	M8
Fire	G16	Mutual ownership contracts	M7
Flood	G16	Office or store	S5
Fractional interest	M footnote	Possessory interest	P series
Friend occupies in absence	G18	Veterans exemption	V
		Leasehold condominium	C3
General questions	G series	Legal resident, not	G29
Genetically unrelated	E12, E15	Legally separated	G1
Government-owned dwelling	M9, P series	Legatee	E8
Grant deed	C2	Letters to assessors	
Grazing	S4	Notice 82/13, 2-2-82	F12
Guardian	E14, E17	Social security 4-22-71;	
		81/61, 5-19-81	G13
Heir	E9, E10, G35	Two different exemptions	
Holding agreement-allow		77/112, 8-22-77	G36
Homeowners' and veterans '	F10	Life estate	E1,E2,E3,E4
Hospital, confined to	G17	Limited equity housing	M series
House closed	G35	Living trust	E5
		Loan commitment	G3
Incompetent	E17	Low valued dwelling	G23
Ineligible homeowner	F12, F16		
Inform applicant	G32	Mailed	F9
Information	X3	Makes payments	G8
Ingress-egress	G2	Manager's quarters	M8
Intent to occupy	G26	Maximum benefits	V6,V7,V9
Interest in the property	M footnote	Membership interest	M6
Intestate	E series	Military duty	G29

INDEX TO THE QUESTIONS AND ANSWERS FOR THE HOMEOWNERS' EXEMPTION (Contd.)

Mining claim	P3		
Mislabeled lease	M7	Parcel number	F6,F15,X series
Mobilehome	G21,P2	Parsonage	G27
Motel	M8,M9	Partial denial	G32
Mountain cabin, govt. land	P2,V14	Partnership	
Mountain home, works in		Dies intestate	E15
distant town	G20	Multi-dwelling	M3
Moved	F8,F14,S6	Occupied by all	S8
Multiple-claim list	X series	Roll	G6
Multiple-family dwelling	M series	Single-family res,	
Mutual ownership contract	M7	occupied by all	S8
		Two res, one parcel	S10
Name of business	G5,G6	Pays all expenses	E15,G8,S8
Name of corporation	G7	Pay tax, protest	G37
Name of relative	G8	Penalty 25%	F12
Name of spouse	F4	Percentage interest	C1,M footnote
Name on claim	F3		S1,S2
Name on roll	E2,F4,F6	Perpetual use	M7
Newspaper	F9	Personal possessions in	G26
NONE, enter,	G14	Personal property	V,V8
Nonexclusive right	G2	PL 235 program	G33
Nonprofit organization	M6	Portion exemp. denied	G32
Nonowner sign claim	F4	Possessory interest	M9, P series
Not allowed exemption			V14
Partial denial	G32	Power of attorney	E16
Veteran allowed	V series	Probate	E8,E10
Vet exempt other prop .	F10	Proprietorship	G6
Not legal resident		Protest	G37
(serviceman)	G29	Prove ownership	G6,S12
Not legally separated	G1	Public access, form	F6
Not open, public inspection	F6,G13	Public law 235	G33
Not recorded, deed	G10		
Notice, termination	F12	Quitclaim deed	G34
Notify claimant	F15		
		Radio	F9
Occupies on February 28	G3,G26	Reason for late filing	F5
Office	S5	Recordation	
One exemption per dwelling		Commercial	F9
unit	G2	Corporation	G7
One-time filing	F11	Contract, deed	G9
Open-space	G25	d.b.a.	G5,G6
Open to public		Relative, name of	G8
inspection -No-	F6	Sole owner, bus.	G5
Overseas	G29	Unrecorded	G8
Own-your-own	C2	Refiling	F15
Owner of shares	M6	Register car	G20
		Relative owns	G8
Parcel line straddled	G23	Remainderman	E1
		Remodeling	G24

INDEX TO THE QUESTIONS AND ANSWERS FOR THE HOMEOWNERS' EXEMPTION (Contd.)

Rent, homeowner not applicable on property leased or rented to or from others	C3,E15,G15, G17,G18,G29 M1,M8,P1,P3, S1,S4,S5,S8, S9	Owned partnership	S10
		Structure, sep. own	S12
		Separate values	M4
		Separated, husband and wife	G1
		Serviceman	G29
		Signature, only an owner may sign	F4,M5
Renter's credit	F11	Signatures, two	F14
Revocable trust	E4	Signs prior to lien date	G26
Right of revocation	E4	Single-family dwelling	S series
Right of survivorship	E15	Single parcel	S2, S3
Roll		Snowed-in	G16
Corp., partnership	G6	Social security number	
Died, estate	F2	All names on roll	F6
Life estate	E2	List spouse too	F4
Mobilehome	G21	Multiple list	F11
Names, all claimants	F6	Multiple owners	M5
One name, both SSN	F4	NONE, no SSN	G14
Rooming house	G28	Provide or waive	G13
Rule No. 135	G10,G32,X1	Report number	F14,X series
		Sold to the state	G30
Secondary home	G16,G20	Sole owner	G5
Section 218.5, R & T Code	G13,X series	Special assessments	G31
Section 255, R & T Code	F1	Spouse	F14
Section 255.1, R & T Code	F15	State controller	X1
Section 255.2, R & T Code	V12, V13	Storage shed	G22
Section 255.3, R & T Code	F9, F12	Store or business	G5,G6,S5
Section 260, R & T Code	G13	Store personal property	G26
Section 423, R & T Code	G25	Straddle parcel line	V3
Section 423.5, R & T Code	G25	Structure straddles parcel	G23
Section 426, R & T Code	G25	Subleasehold condominium	C3
Section 428, R & T Code	G25	Subsidiary record	F6
Section 531.1, R & T Code	X2	Subvention	X series
Section 531.6, R & T Code	X2	Superior court	G37
Section 2188.2, R & T Code	G12,S11,V,V5	Survivor	E12,E15
Section 2188.3, R & T Code	C1	Suspense file	G26
Section 2188.4, R & T Code	V		
Section 2188.7, R & T Code	M series	Tax collector, send notice	F12
Section 2615.5, R & T Code	F12	Tax loss	X series
Section 17265, R & T Code	M6	Taxes, pays	G8
Segregations	S9	Television	F9
Separate claims	M series, S6, S10	Temporarily away	G15-G20
		Tenancy in common	E13,M2,V9
Separate cooking facilities	M8	Termination	F11,F12
Separate property	E10	Testate	E series
Separate residences		Three or more units	M series
Additional dwellings	S9	Timely filed	F1
Husband, wife	G1	Title	G4
One assd. 2188.2	S11	Title pass	G4
		Totally disabled veteran	V15

INDEX TO THE QUESTIONS AND ANSWERS FOR THE HOMEOWNERS' EXEMPTION (Contd.)

Trailer coach	G21-G24,P2,V11
Training requires absence	G18
Transfer exemption	F8
Trustee	E14, F7
25% penalty	F12
Two exemptions, duplex	F3
Two names on claim	F3,F14
Two signatures	F14
Two single dwellings	S9-S12,M5, V4-6
Unable to occupy	G16
Under construction	G24, V11
Unoccupied	G35, V11
Unrecorded contract of sale	G8
Unrecorded trust agreement	E4
Unrelated person	E12
Unsigned claim	F7
Vacation home	G16, G20
Value each unit	M footnote
Verify eligibility	F11
Vessel	F11
Veteran, blind or disabled	V15
Veterans' exemption	F20,G2,G29 G32,M1,M4, P2,S12, V series
Veterans' exemption, cancel	V16
Veterans' exemption, duplex	V7,V10
Veterans' exemption, other property	V1
Veterans' exemption, personal prop.	V,V8
Vote	G20
Waive right	G13
Weekends at dwelling	G20
Wholly owned by one spouse	F4
Wholly owned corporation	G7
Widow	E10,E11
Widower	E12
Wife's own legal residence	G1
Will, not probated	E10,E16
Works in distant town; remains overnight	G20

## HOMEOWNERS' EXEMPTION QUESTIONS AND ANSWERS

The theory we employed in determining answers to the questions posed on the following pages is outlined here:

### A. SINGLE-FAMILY RESIDENCE

1. The \$7,000 homeowners' exemption should be allowed on a single-family residence:
  - a. if occupied on the lien date by an owner who pays no rent to anyone else who owns an interest in the property.
  - b. to the extent there is \$7,000 assessed value.
  - c. regardless of the size of the parcel containing the dwelling.
  - d. only to the extent of the parcel as shown on the roll.
2. The homeowners' exemption should NOT be allowed:
  - a. on any portion of the land or improvements leased or rented to or from other persons.
  - b. on the parcel of property if another real property exemption (veterans' or disabled veterans') has been allowed on either the land or the dwelling unit. NOTE: a veterans' exemption may apply to personalty, such as a boat or business personal property, without disqualifying the recipient from the homeowners' exemption.
  - c. on more than one parcel in the same ownership even though the additional parcel(s) may be contiguous, unless the dwelling unit straddles two parcels.

### B. DUPLEX

1. The \$7,000 homeowners' exemption should be allowed on each side of a duplex:
  - a. if each side is occupied on the lien date by an owner who pays no rent to anyone else who owns an interest in the property.
  - b. to the extent there is \$7,000 assessed value on each side.
  - c. regardless of the size of the parcel containing the duplex.



2. The homeowners' exemption should NOT be allowed on a unit of a duplex:
  - a. that is leased or rented or is vacant, but is for lease or rent.
  - b. if a veterans' exemption has been allowed on the land or improvements that are contained in the parcel.

C. COMBINATION RESIDENCE AND BUSINESS PROPERTY

1. The entire \$7,000 homeowners' exemption should be allowed on a dwelling that is part of a farm or business:

- REVISED
- a. except for that portion of the property that is leased or rented to or from someone else.
  - b. unless another real property exemption other than the homeowners' exemption is allowed on a portion of the land or dwelling unit. NOTE: a veterans' exemption may apply to personalty, such as a boat or farm equipment, without disqualifying the recipient from the homeowners' exemption.
- NEW
- c. and may include a sufficient amount of the improvements or land of the farm or business to equal the \$7,000 exemption.

D. MULTIPLE-FAMILY RESIDENCE OTHER THAN A DUPLEX

1. The \$7,000 homeowners' exemption should be allowed on each qualified dwelling unit that is located in a multiple-family residence:
  - a. to the extent of the assessed value computed by dividing the total assessed value of the land and improvements by the number of dwelling units.
  - b. unless one of the owners living either on or off the property is allowed the veterans' or disabled veterans' exemption on the property.

HOW TO USE THIS COMPILATION

Questions and answers on the ensuing pages have been divided into main topics in accordance with the following outline. As some questions you will encounter on the job entail complex combinations of circumstances--for example, a business, farm and veterans' exemption on the same property--you may need to check several answers to arrive at a decision. Each division of the questions and answers has been assigned a letter that is phonetically easy to remember, as follows:

	<u>Page</u>
C. Condominiums	4
E. Estates, Trusts, Power of Attorney, Guardian	5
F. Forms, Filing, Processing, and Entry on the Roll	8
G. General Questions	12
Divorce, Legally Separated, Separate Residences	12
Escrow, Recordation, Title	12
Social Security Account Number	14
Temporarily Away	14
Mobilehome and Trailer Coach	15
Under Construction	16
Miscellaneous	16
M. Multiple-Family Residence	19
Duplex	19
Three or More Dwelling Units in a Multiple-Family Residence	20
P. Possessory Interests	23
S. Single-Family Residence	24
Partnership	25
Two or More Single-Family Residences on One Parcel	25
V. Veterans' Exemption (in conjunction with the homeowners' exemption)	27
X. Exemption Subvention – Certification of names to the Controller	32

C. CONDOMINIUMS (See Section 783, Civil Code, and 2188.3, Revenue and Taxation Code)

A condominium is an estate in real property consisting of an undivided interest in common in a portion of a parcel of a real property and a separate interest in space in a residential, industrial, or commercial building on the real property such as an apartment, office, or store. A condominium may include, in addition, a separate interest in other portions of the real property. Such estate may, in respect to its duration, be either (1) an estate of inheritance or a perpetual estate, (2) an estate for life or (3) an estate for years.

C1. The owner has a recorded deed that grants a percentage interest in the property and the right to the exclusive occupancy of a particular apartment. If the interest is not assessed separately, may the owner receive the homeowners' exemption?

ANSWER: YES. Since the described interest appear to fall within the definition of condominiums, Section 2188.3 of the Revenue Taxation Code requires separate assessment and the assessor should so assess them in the future.

C2. May the homeowners' exemption apply to "own-your-own" projects?

ANSWER: YES. The Board's legal staff believes that a condominium is created by a grant deed that conveys all of the following:

- a. An undivided ownership interest (usually expressed as a percentage or a fraction) in the land or in the land and the common areas of the structure.
- b. The exclusive right of occupancy of a specified apartment. (This may be coupled with the exclusive use of a specified garage or specified storage space.)
- c. The nonexclusive right to use of common areas for purposes of ingress and egress to the specified living unit and the nonexclusive right to use all common areas for the purposes for which they are designed. (These rights may be expressed in terms of an easement.)

C3. May a person who has a leasehold or subleasehold condominium qualify for the homeowners' exemption?

ANSWER: NO. If there is a lease in effect, rental payments would be involve; rental property does not qualify.

C4. May the homeowners' exemption be allowed on a condominium where a portion of the improvement is owned in fee but the land is leased?

ANSWER: The exemption may be allowed on the structure only.

E. ESTATES, TRUSTS, POWER OF ATTORNEY, GUARDIAN (owner died, see G35)

E1: May an occupant of a property who owns a life estate in that property receive the homeowners' exemption?

ANSWER: YES. An occupant remainderman (the person who acquires the property after the death of the owner of the life estate) may not receive the exemption under any conditions as long as the life estate interest exists.

E2. Must a life estate be segregated on the roll?

ANSWER: NO. The roll may contain the entire property value and the amount of the homeowners' exemption. The assessor's records will indicate the computations necessary to determine the value available for the exemption and the amount of the exemption allowed. It is not required, but preferable, that the name of the holder of the life estate appear on the roll; it is the holder's name and social security number that must be provided to the Board under the provisions of Section 218.5 of the Revenue and Taxation Code.

E3. May a homeowner who has a life estate in a home located on land owned by his brother receive the homeowners' exemption on the land?

ANSWER: NO. he may only receive the exemption on the home; no part of the exemption may apply to the land.

E4. May the exemption be applied where a deed absolute on its face is subject to an unrecorded trust agreement between a grantor and a grantee which creates a life estate and a right of revocation in the grantor?

ANSWER: YES. A well-known religious organization has been deeded property in this manner. The grantor-beneficiary of the trust must sign the claim.

E5. May the homeowners' exemption be allowed on property where the trustor has created a revocable "living trust" and presently occupies the dwelling?

ANSWER: YES. This procedure is currently being followed to avoid probate proceeding upon the death of the trustor.

E6. May the homeowners' exemption be allowed on property where the trustor has created an irrevocable trust and presently occupies the dwelling?

ANSWER: YES.

E7. Does the homeowners' exemption apply to property occupied by a beneficiary of a trust even though legal title may be held in trust by a bank?

ANSWER: YES. The occupant or the trustee could file the claim. The assessor should require the claimant to present a copy of the trust. The bank could file the claim on behalf of the beneficiary and sign as trustee of the property owned by the occupant beneficiary.

E8. If a person dies testate, when is a devisee or legatee considered to be the "owner" of the property?

ANSWER: Ownership transfers at the time of death. The administrative act of probate need not be final.

E9. If a person dies intestate, when is the heir considered to be the owner of the property?

ANSWER: At the time of death of the deceased.

E10. A person dies intestate several years ago leaving a home that was his separate property. His widow has not put the property through probate proceedings but has continued to occupy the home. Is she entitled to the homeowners' exemption?

ANSWER: YES. A widow is one of the heirs at law to separate property owned by her husband at the time of his death. Property is owned by an heir as of the date of the decedent's death.

E11. A person dies intestate, leaving a home that was owned as community property or in joint tenancy with his wife. The estate is still unsettled on tax lien date. Is his widow entitled to the homeowners' exemption if she occupies the home on tax lien date?

ANSWER: YES.

E12. A person dies intestate leaving a home that was owned in joint tenancy with a genetically unrelated person. The estate is still unsettled on tax lien date and the surviving joint tenant occupies the home. Is he automatically entitled to the homeowners' exemption?

ANSWER: NO. The survivor must file a homeowners' exemption claim form. The exemption is not automatically extended to a joint tenant who is not a widow or widower.

E13: A person dies intestate leaving a home that was owned in tenancy in common with his sister. The estate is still unsettled on tax lien date, and his sister occupies the home. Is she automatically entitled to the homeowners' exemption?

ANSWER: NO. The sister must file a homeowners' exemption claim form.

E14: Are there preferable ways in which a trustee, guardian, or conservator should sign an exemption claim?

ANSWER: YES. The law does not specify how a claim is to be signed in such situations, but we suggest the following:

- a. Estate of John Doe  
by X bank, Executor or Administrator of the estate of John Doe.  
(This form would be used if John Doe died after the lien date but was an owner-occupant upon his death.)

E15. A person dies intestate leaving a home that was owned in partnership with several genetically unrelated persons. There is nothing in the partnership agreement about rights of survivorship. The estate is still unsettled on the tax lien date and one of the surviving partners occupies the home. Is he automatically entitled to the homeowners' exemption?

ANSWER: NO. He must file a homeowners' exemption claim form. He is then eligible if he occupies the dwelling, pays all of the expenses of maintaining the dwelling, and pays no rent to the other partners.

E16. May a person holding a power of attorney execute the claim form for a qualified owner-occupant?

ANSWER: YES. See our Letter to Assessors', dated February 5, 1970, titled "Homeowners' Exemption-Filing by Legal Representative."

E17. How should the executor of an estate or the guardian of a minor or incompetent complete the form for the 1982 homeowners' property tax exemption?

ANSWER: He should add "Estate of --" in front of the minor's or incompetent's name and sign his own name as "Executor for the Estate of ..." or in the case of guardianship, sign his ward's name and his own as guardian for the owner-occupant ward.

F. FORMS, FILING, PROCESSING, AND ENTRY ON THE ROLL

F1. May the assessor accept a homeowners' exemption claim for the forthcoming year prior to the lien date?

ANSWER: REVISED YES. Section 255 of the Revenue and Taxation Code provides that affidavits for the homeowners' exemption be filed with the assessor any time after the claimant becomes eligible; claims filed by 5:00 p.m. on April 15 are timely filed claims. As an example, a claimant who occupies a residence at, say, 8:30 a.m. on March 1, 1982 is not eligible for 1982 (as he was not an occupant at 12:01 a.m. on March 1) but may be eligible for 1983 if he still occupies the dwelling. The assessor must accept this claim for 1983 but should verify occupancy as of March 1, 1983 before activating the claim. The statutes do NOT provide that the claimant must file another claim at some later date to establish eligibility for 1983.

F2. Should the assessor, upon receiving notification that a claimant died subsequent to the lien date but before compilation of the roll, reflect the notice on the roll?

ANSWER: YES. The roll should reflect the existence of the estate.

F3. REVISED If ownership of a duplex is indicated on the roll by the entry of two names, must both names be included on the claim for the homeowner's benefits?

ANSWER: Only one owner need sign the claim and it must be an owner who also occupies the duplex. The claim form must include the claimant's name and may include the name of one or more other owners. If owner-occupants occupy both sides, each must file a separate claim in order for each to receive the exemption.

F4. REVISED If a husband and wife occupy a home that is wholly owned by either spouse and listed on the roll in one name only, must both social security numbers be listed on the form and may the non-owner sign the claim?

ANSWER: Both social security numbers must be listed; only the owner may sign the claim.

F5. REVISED May a claimant be required to complete an affidavit giving the reasons for late filing made between April 16 through December 1 of the same calendar year?

ANSWER: NO. Beginning with 1974 claims, the homeowners' exemption applicant need no longer submit proof that late filing was due to reasonable cause.

F6. Must the names of all claimants of exemptions for a single parcel, REVISED whether a single or multiple-dwelling, appear on the assessment roll?

ANSWER: NO. Only the total amount of the exemptions need appear on the roll; if it is feasible to list all claimants, do so. Otherwise, the assessor must identify the name of each claimant on a subsidiary public record arranged in parcel number order to which the public has access. However, the assessor must report a social security number or numbers for each exemption to the state. He must ensure his records indicate the name and address or apartment number of each claimant and the amount of each exemption allowed. Beginning with 1974-75, the homeowner's exemption claims and records are no longer open to public inspection if they include the social security number of the claimant and/or spouse.

F7. May the homeowners' exemption be allowed where the claimant has completed the claim form but has failed to sign the claim?

ANSWER: NO. An unsigned claim may not be allowed. However, if the claimant has filed a timely claim, the assessor may allow a reasonable extension of time for the claimant to provide required information or to sign the claim. Only one extension shall be allowed, and with exception (see Section 255.1 of the Revenue and Taxation Code), the extension shall not go beyond October 15 which is six months from the due date of the claim. A trustee or other agent may act for the claimant who is unable to complete the form.

F8. May the homeowners' exemption be transferred from one property owned and occupied by the claimant on the lien date to a property to which the claimant has subsequently moved?

ANSWER: NO.

F9. How is it possible to determine whether a unit eligible for the homeowners' exemption exists in a commercial structure in order to mail a claim form as required by Section 255.3 of the Revenue and Taxation Code?

ANSWER: Section 255.3 requires the claim form be mailed to a person acquiring and recording title to an eligible dwelling since the preceding lien date. If the newly acquired structure is not of a type which might reasonably be expected to contain an eligible dwelling unit, the assessor may rely on newspaper articles and spot announcements on radio and television to alert potential claimants.



- F10. Should the assessor accept claims for both the homeowners' exemption and the veterans' exemption?
- ANSWER: YES. There may be instances where one exemption will be disallowed and the person will qualify for the other. A person may also qualify for both exemptions, but on separate properties.
- F11. REVISED With one-time filing for the homeowners' exemption now in effect, how can an assessor verify eligibility of an individual as of the lien date?
- ANSWER: The lack of receiving a written termination is sufficient verification for the assessor. The State's social security number computer match will remain as a primary audit of instances where a claimant retains his former home and filed for exemption on a new residence without cancelling his eligibility at the old location. The match will also detect cases where the homeowners' exemption recipient claims the "renter's credit" on California income taxes. The Board is formulating additional procedures to audit claimants' eligibility.
- F12. REVISED Is an ineligible homeowners exemption recipient excused from the 25-percent penalty for not terminating the exemption if the tax collector neglects to send him the annual notice required by Section 2615.5 of the Revenue and Taxation Code?
- ANSWER: NO. The last sentence of Section 2615.5 Revenue and Taxation Code states "Failure to receive the notice shall not excuse the taxpayer of the duty to inform the assessor of his ineligibility for the exemption." See letter to county assessors 82/13, February 2, 1982.
- F13. REVISED A homeowners' exemption claim is filed late when it is filed between April 16 and 5:00 p.m. December 1. The property is properly allowed 80 percent of the exemption. Does this mean a person whose property's assessed value is \$5,600 or less (80% of \$7,000 = \$5,600) suffers no penalty when the claim is filed late?
- ANSWER: NO. The law intends a 20 percent loss in amount of exemption for late filing. The amount of the exemption is the lesser of 80 percent of the statutory allowance (80% of \$7,000 = \$5,600) or 80 percent of the assessed value of the dwelling where the assessed value is less than \$7,000. As an example, if the assessed value of a dwelling (boat or other low valued property) is \$5,600, the exemption would be \$4,480; the difference, \$1,120, would be taxable.

F14. REVISED May the assessor accept a claim with the signatures and social security numbers of two or more related or unrelated coowner-occupants of a single dwelling?

ANSWER: YES. The law states that an owner-occupant must file. Only one name and social security number must be reported to the state except that where there is a spouse, the spouse's number is also to be reported. However, the assessor may accept a claim with all coowner-occupant's names and social security numbers.

A more preferable procedure is to have each owner-occupant who cares to file a claim complete a separate claim form listing their social security number and the social security number of their spouse. The assessor must report at least one of the claimants to the Board but may report all of the claimants if he so desires. The assessor must use care to allow only one exemption for a single dwelling. This procedure assures that an acceptable claim is on file should any of the owner-occupants die or move to another location. A typical example of where the exemption is now being lost is where a mother and her son own a property as, say, joint tenants, and only the mother signs a claim. If the mother moves or dies, a valid claim is not on file so that the exemption can be continued for the son.

F15. May the homeowners' exemption be allowed on a dwelling where the claimant had entered the parcel number of another parcel in error?

ANSWER: YES. Under the provisions of Section 255.1, the assessor can accept a refiling within three months from the time the defect was discovered and the claimant notified.

F16. REVISED May the homeowners' exemption be allowed in a county, if a claim is filed and approved, where a claim had been filed in another county and the claimant has subsequently been found to be ineligible in that other county?

ANSWER: YES. If the claimant files a claim late but within the time specified by law which is December 1, 80 percent of the exemption may be allowed. In a case like this, the assessor of the second county involved may not use the date of filing the first claim in another county as a basis for his determining timely filing. The exemption must not be allowed if claimed subsequent to December 1.

G. GENERAL QUESTIONS

Divorce – Legally Separated – Separate Residences

G1. May both the husband and wife who won and occupy separate residences each receive the homeowners' exemption?

ANSWER: YES. Since March 7, 1973, a married woman has the right to retain her own legal residence in the State of California notwithstanding the legal residence or domicile of her spouse. If the claim of a separate legal residence for the wife appears unfounded, the assessor should allow the exemption on the property occupied by the husband. Legal separation is no longer necessary.

REVISED G2. In a divorce action, a home is awarded one-half to each spouse. The ex-wife resides in the home as her principal place of residence. May the ex-wife receive the homeowners' exemption on her half and the ex-husband receive either the homeowners' exemption or the veterans' exemption on his half?

ANSWER: NO. They may receive only one exemption on the property. Either the ex-husband obtains the veterans' exemption to the extent of his interest in the property, or the ex-wife receives the homeowners' exemption on the property. Allowance of both the veterans' and the homeowners' exemptions or two homeowners' exemptions on the same dwelling unit is improper. The maximum benefit is obtained by allowing the wife a \$7,000 homeowners' exemption.

Escrow – Recordation – Title

G3. Can a purchaser of a residence claim the homeowners' benefits on a dwelling that is in escrow on the lien date?

ANSWER: YES. Where the buyer has occupancy on February 28 and all conditions necessary to establish a binding contract of sale have been met. A primary test is the date when a loan commitment is made by a lender.

G4. When does title to property that is in escrow pass?

ANSWER: The purchaser obtains title at the moment in time when all conditions of the escrow have been fulfilled even though the escrow holder may not have physically transferred the deed to the property. If he does not know "the moment in time," the assessor may properly assume that title passed on the date on which the escrow was closed.

G5. May a person receive the homeowners' exemption on property that is recorded in the name of a business (d.b.a.)?

ANSWER: YES. He must be the sole owner of the business and there must not be a separate legal entity which owns the property. The claimant should sign a statement under penalty of perjury that clearly states that he is the sole owner of the business.

G6. How does the county assessor determine from the roll whether a business is a corporation, a partnership, or a proprietorship when it is listed by d.b.a. only?

ANSWER: The assessor must inquire. If the owner can prove ownership, even though title is recorded in a different name, he may be entitled to the exemption. See G7.

G7. May a person receive the homeowners' exemption on property that is recorded in the name of a wholly-owned corporation?

ANSWER: NO. The property is owned by a separate legal entity that does not qualify for the exemption. See M6 for cooperatives.

G8. REVISED May a person who resides in and makes the payments, pays the taxes, and maintains a home that is recorded in the name of a relative receive a homeowners' exemption on the property?

ANSWER: NO. However, if there is an unrecorded deed or if the relative and the occupant have executed either a recorded or an unrecorded contract of sale, the property may receive the homeowners' exemption. It is the occupant's name and social security number that should be reported to the Board under the provisions of Section 218.5, Revenue and Taxation Code.

G9. Is recordation of the deed or contract of sale necessary to obtain the homeowners' benefits?

ANSWER: NO. The assessor should secure a copy of the document from the claimant. An agreement of sale does not usually qualify the property for the exemption.

G10. May the homeowners' exemption be allowed on property when the deed has been executed but not recorded?

ANSWER: YES. According to Rule No. 135 (a) (4) (B) (1), the exemption may be allowed on property where there is "an owner whose title had not yet been recorded."

G11. Is a person whose interest in a dwelling is evidenced by a deposit receipt eligible for the homeowners' exemption?

ANSWER: NO. (See items G3 and G4.)

G12. What type of documentation should an assessor require from a person claiming ownership of a structure located on land owned by another; e.g., when a son claims ownership of a home on land owned by his father?

ANSWER: Request a written statement of separate ownership in accordance with Section 2188.2 of the Revenue and Taxation Code. The statement need not be recorded. Though not legally required, it is best that both parties sign the agreement.

#### Social Security Account Number

G13. Must a claimant provide his social security number? He may feel that an assessor has no legal authority to require the social security number.

ANSWER: YES. A claimant may choose not to reveal his social security number and waive the exemption (see Section 260, Revenue and Taxation Code). The claim containing the social security number is confidential information and not open to public inspection. There is nothing in federal law which prohibits an individual from divulging his number. Reference: State Board of Equalization Letter to Assessors' dated 4-22-71. Revenue and Taxation Code, Section 218.5 provides, in part, "The board (SBE) may specify that the information (on the form) include all or part of the names and social security numbers of claimants and spouses. . ." (clarification added)

G14. Whose social security number is listed if a person or corporation other than the occupant files a claim on behalf of the owner or beneficiary?

ANSWER: The social security number of the occupant; the word "NONE" should be entered if he has no number.

#### Temporarily Away

G15. May a person who is temporarily away from his residence, and the residence was not leased or rented to others on the lien date, qualify for the homeowners' exemption?

ANSWER: YES. An absence of more than one year would raise considerable doubt that this is the principal residence.

G16. May a person who is unable to occupy the home he owns during the winter because it is snowed-in, and who obtains temporary residence elsewhere, qualify for the exemption?

ANSWER: YES. The person should demonstrate that he returns to his home when possible to do so. The exemption does not extend to property which is a vacation or second home, but temporary absences because of fire, flood, or snow do not change the status of a principal place of dwelling.

G17. Does the dwelling occupied by the family of a son and owned by a parent who is confined to a convalescent home or hospital qualify for the homeowners' exemption?

ANSWER: YES. The dwelling may be exempt if the claimant is expected to return to the dwelling and if he does not receive rent from any persons occupying the premises. An absence of more than one year would raise considerable doubt that the owner is expected to return.

G18. May the homeowners' exemption be allowed on a dwelling where the owner is a teacher or technician whose training or employment requires his absence for a period of time?

ANSWER: YES. The home must not be rented to someone else. The exemption may be allowed if a relative or friend occupies the home in the capacity of a caretaker while the owner is away.

G19. May the homeowners' exemption be allowed on a home where a temporary exchange of dwellings has taken place with another family from the United States or from a foreign county?

ANSWER: YES. The assessor should carefully consider the facts if the period exceeds one year.

G20. Does a person who spends most of the weekends at the home he owns in the mountains, at the beach, or elsewhere qualify for the exemption if he resides during the week in an apartment in a distant town where he works?

ANSWER: Each case should be decided separately on the basis of pertinent information. If it were found that the person did several things such as vote in the town of employment, register his car at his town address, and engage in other acts indicative of residence in the town, he could not be allowed the exemption on the home in the mountains. The exemption should not be allowed on a vacation or secondary home.

#### Mobilehome and Trailer Coach

G21. Does the homeowners' exemption apply to a mobilehome?  
REVISED

ANSWER: YES. The exemption applies if it is occupied by an owner and appears on the assessment roll.

As many trailer coaches are licensed, the exemption could only apply to land or to skirting and other improvements owned by the claimant where a trailer coach is located.

G22. Does the homeowners' exemption apply to a cabana or storage shed that is attached to, or in close proximity to, a licensed trailer coach if the cabana or storage shed is owned by the trailer coach owner?

ANSWER: YES. The exemption applies to such property if it can be determined that is reasonable appurtenant to the dwelling.

G23. May a person residing in a licensed trailer coach or in a low-valued dwelling on his own land receive the homeowners' exemption both on the land contained in the parcel and on any contiguous parcels he may own until the full \$7,000 has been applied (the total land may amount to many acres)?

ANSWER: NO. The exemption may be applied only to the parcel on which the trailer coach or the dwelling is located. However, when a structure straddles a parcel line, both parcels may be exempt. The combined exempt value is limited to \$7,000.

#### Under Construction

G24. May the homeowners' exemption be applied to a dwelling that is under construction on the lien date?

ANSWER: Some dwellings are always under construction to some degree. The exemption should not be allowed on a dwelling that is under construction if the owner lives elsewhere and plans to move into the structure when it is completed. However, if the owner actually occupies the dwelling as his principal place of residence, he may receive the exemption. If the person does not occupy the dwelling under construction but lives in a trailer coach or other abode on the property, no part of the homeowners' exemption may be applied to the structure under construction. The exemption may be applied to the abode or to the land on which the abode is located. If the person is occupying an existing dwelling and is remodeling or adding to it, the exemption should be allowed on the assessed value of the entire property.

#### Miscellaneous

G25. May the homeowners' exemption apply to land assessed under open-space and enforceable restriction provisions (Sections 423, 423.5, or 426) of the Revenue and Taxation Code?

ANSWER: NO. The exemption may apply on a dwelling and the land the dwelling occupies that is assessed under Section 428 of the Revenue and Taxation Code.

G26. REVISED Is the “intent to occupy” sufficient basis for granting the homeowners’ exemption if some of the personal possessions have been moved in?

ANSWER: NO. If a person stores personal property in a dwelling and has not occupied the dwelling as his principal place of residence, the property would not qualify for the exemption. Where a claimant signs the claim prior to the applicable lien date, the claim should be placed in a suspense file until the assessor determines that the claimant has actually occupied the property; the claim may be “activated,” prior to the lien date where the assessor knows the claimant has moved into the dwelling; the assessor may activate the claim on or subsequent to March 1 when he is assured that the claimant occupied the dwelling the last day of February. Of course, a signed statement on or subsequent to March 1 is sufficient evidence of occupancy. (The assessor may wish to enter on the claims signed prior to March 1 “Date of occupancy

\_\_\_\_\_.”  
Month/Day/Year

G27. Does a parsonage owned by a religious organization and occupied by an individual commissioned or assigned by the organization qualify for the homeowners’ exemption?

ANSWER: NO. Occupancy by a nonowner clergyman or caretaker does not qualify church property for the exemption.

G28. Does a rooming house owner-occupant qualify for the homeowners’ benefits?

ANSWER: YES.

G29. REVISED Does the homeowners’ property tax exemption apply to homes of servicemen and other persons who are not legal residents of California?

ANSWER: YES. If the person owns and occupies the home and does not receive the veterans’ exemption on the home he may receive the homeowners’ exemption. If the serviceman is overseas and his family occupies the home, the wife may claim the exemption. The exemption does not apply if the dwelling is leased or rented to other persons.

G30. May a person receive the homeowners’ exemption on a property “sold to the state”?

ANSWER: YES. A dwelling may receive the homeowners’ exemption until the time the property is “deeded to the state.”

G31. Does the homeowners’ property tax exemption apply to ad valorem special assessments”

ANSWER: NO.



G32. If all or any part of the homeowners' exemption is not allowed, is the assessor required to so inform the applicant and advise him of the reason for the partial disallowance?

ANSWER: YES, see Rule No. 135, (a) (5), 11-7-80. A partial denial might prompt an owner to claim the veterans' exemption or to contact the assessor for the purpose of demonstrating the his unit is of a greater value than the assessor calculated. (See footnote for question M2.)

G33. May the homeowners' exemption be allowed on dwellings acquired under the PL 235 program?  
REVISED

ANSWER: YES.

G34. May the homeowners' exemption be allowed on property occupied by a claimant who has a quitclaim deed?

ANSWER: YES. A deed of any description or a contract of sale, whether recorded or not, is sufficient evidence of property ownership for purposes of the homeowners' exemption.

G35. May the homeowners' exemption be allowed on a dwelling that is closed and unoccupied because the owner died just prior to the lien date?

ANSWER: NO. The exemption could apply had an heir occupied the dwelling by the last day in February.

G36. May a homeowners' exemption be allowed on a documented vessel assessed at 4 percent of its full-cash value?  
REVISED

ANSWER: NO. Two different types of exemptions may not be granted on the same property. The owner may select one exemption or the other but not both. See Letter to Assessors' 77/112, dated August 22, 1977.

G37. To whom should a claimant who has been denied the homeowners' exemption file an appeal?  
REVISED

ANSWER: There is no statute in the Revenue and Taxation Code that provides for an appeal for homeowners' exemption matters. The claimant must pay the taxes and file a claim for refund. Should the Board of Supervisors fail to approve the claim for refund of taxes paid, the claimant may seek recovery of the taxes by bringing an action in superior court.

M. MULTIPLE-FAMILY RESIDENCE

The \$7,000 homeowners' exemption should be allowed on each qualified dwelling unit that is located in a multiple family residence:

- a. to the extent of the assessed value computed by dividing the total assessed value of the land and improvement by the number of dwelling units.
- b. unless one of the owners living either on or off the property is allowed the veterans' or disabled veterans' exemption on the property.

Duplex

A. The \$7,000 homeowners' exemption should be allowed on each side of a duplex:

1. if each side is occupied on the lien date by an owner who pays no rent to anyone else who owns an interest in the property.
2. to the extent there is \$7,000 assessed value on each side.
3. regardless of the size of the parcel containing the duplex.

B. The homeowners' exemption should NOT be allowed on a unit of a duplex:

1. that is leased or rented, or is vacant but is for lease or rent.
2. if a veterans' exemption has been allowed on the land or improvements that are contained in the parcel.

M1. May a person receive the homeowners' exemption on a duplex he owns if he occupies one side of the duplex and rents the other side to others?

ANSWER: YES. The exemption may only be allowed on the value of the land and structure on the side he occupies. None of the homeowners' exemption or the veterans' exemption may apply to the land or structure on the side rented to others.

M2.1/ When each of two persons has an undivided one-half interest, joint tenancy, or tenancy in common in a duplex and each person lives in a separate side, is each person entitled to the homeowners' exemption?

ANSWER: YES. (See the footnote below.)

---

1/ See footnote 1/ on next page.

M3.1/ Would a duplex owned and occupied by a two-member partnership, where each side is the principal residence of a partner, qualify for the homeowners' exemption?

ANSWER: YES. As two separate single-family dwellings.

Three or More Dwelling Units in a Multiple-Family Residence

Under the provisions of Section 2188.7, Revenue and Taxation Code, upon written request for separate assessment, the assessor shall on the first lien date which occurs more than 60 days following the request, separately assess the individual interests of community apartment projects, cooperative housing, and limited equity housing cooperatives.

M4.1/ REVISIED Since 1973, any type of residential property can qualify for the homeowners' exemption if it is owner-occupied and assessed by the assessor. What are the limits that pertain to dwelling units in a multiple-family residence?

- ANSWER:
1. Only one homeowners' exemption for each dwelling unit.
  2. The maximum exemption is the value of the owner-occupied unit. For example, if the land and improvements of a six-unit apartment had an assessed value of \$38,400, the maximum allowable exemption for one of the units would usually be \$6,400 ( $\$38,400 \div 6 = \$6,400$ ). If the assessor has determined separate values for each unit because of a difference in size or location of the units in the total property, no owner-occupied unit would receive an exemption that exceeds its full-cash value. None of the residents may receive the homeowners' exemption if the

---

1/ Where the property owner contends that the value of his property is larger, or volunteers that is smaller than the value of the average unit, or calls the assessor's attention to the fact that he has a fractional interest in the property that is different from the interests of other owners, the assessor should consider such matters when allowing the homeowners' exemption. When demanded by an owner, exemptions according to percentage of interest owned should be handled as follows: if the assessed value of the total property is \$24,000 and owner-occupant A has an 80-percent interest and owner-occupant B has a 20-percent interest, the computation is:

The <u>appraiser determines the market values</u> of the land and improvements for each unit (which in this case is not equal.)	<u>A</u>	<u>B</u>	<u>Total</u>
	<u>(80%)</u>	<u>(20%)</u>	
<u>Assessed value</u> available for exemption:	\$18,000	\$6,000	\$24,000
1. based on the <u>value of each unit</u> .	\$18,000	\$6,000	\$24,000
2. based on each owner-occupant's <u>interest</u> in the total property.	\$19,200	\$4,800	\$24,000
Homeowners' exemption allowed (the <u>lesser of 1 or 2</u> above, not to exceed \$7,000).	\$7,000	\$4,800	\$11,800

assessor has allowed the veterans' exemption or disabled veterans' exemption on any of the land or improvements contained in the parcel.

M5. REVISED In the case of multiple owner-occupants in a multiple-family residence, must the assessor require the names and social security numbers of all owner occupants?

ANSWER: NO. Each dwelling unit should be considered separately and a separate claim containing information applicable to each separate unit should be on file. However, the assessor may accept a signed claim from all owner-occupants who wish to file.

M6. Does the homeowners' exemption apply to apartments located in structures owned by nonprofit corporations or cooperative housing corporations? (Each individual may have an exclusive right to occupy an apartment, each may assign his rights; occupants are allowed to claim a deduction for property taxes paid by the corporation on their individual income tax returns.)

ANSWER: The exemption should be allowed on premises occupied by the owner of shares or a membership interest in a cooperative housing corporation as defined in Section 17265 of the Revenue and Taxation Code The Personal Income Tax Law). An officer of the corporation should annually file form AH 266D, Cooperative Housing Information Request, with the assessor. Each owner of shares or membership interest must file a claim form for the apartment he occupies.

M7. Does the homeowners' exemption apply where there is a "mutual ownership contract" executed by the organization and the residents? (The residents receive a right to the perpetual use of a dwelling unit but are not granted an ownership interest in the unit.)

ANSWER: NO. The residents are not actually owners of corporate property. "Mutual ownership contracts" so far reviewed have turned out to be mislabeled leases.

M8. May the homeowners' exemption be allowed on a motel where an owner(s) occupies the manager's quarters or one of the units?

ANSWER: YES. The exemption may be allowed on the portion of the land and structure occupied by an owner. More than one owner-occupant may qualify, but each owner must have separate cooking facilities and each must file a separate claim. The exemption applies to all of the structure and land except that portion leased or rented to others or that portion available for lease or rent to others.

M9. May a homeowners' exemption be allowed on a dwelling located in a REVISIED motel that is situated on leased land?

ANSWER: YES. The exemption may be allowed on the portion of the structure occupied by the owners. No part of the exemption may be allowed on the land whether owned by another individual, or by a corporation, or by a governmental agency (possessory interest).

P. POSSESSORY INTEREST

P1. Is a person living in a government-owned dwelling in which he holds a possessory interest qualified to receive the homeowners' exemption?

ANSWER: NO. The exemption does not extend to property which is leased or rented from another person whether that person is an individual, a corporation, or a government agency.

P2. May a person be allowed the homeowners' exemption on a mountain cabin, mobilehome, or other dwelling owned and occupied as his principal residence when the abode is situated on federal land and is assessed to the owner?

ANSWER: YES. The exemption applies to the structure if it is owned and occupied as the claimant's principal residence. The homeowners' exemption does not apply to the possessory interest in the land. The homeowners' exemption should not be allowed if the individual or any other person receives the veterans' exemption on his possessory interest in the land. See question V14.

P3. May a person be allowed the homeowners' exemption on a "mining claim" if he lives on the property?

ANSWER: YES. The exemption may be allowed on the improvements and the land he owns and occupies as a dwelling. The exemption does not apply to improvements and land leased or rented from the government or to improvements used for mining purposes.

S. SINGLE-FAMILY RESIDENCE (See A on Page 2)

S1. REVISED May a person receive the \$7,000 homeowners' exemption on a single-family residence that he owns and occupies?

ANSWER: YES. The exemption does not apply if he holds less than full ownership and pays rent to other part owners. If no rent is paid, the \$7,000 exemption may be allowed without determining the percentage of ownership.

S2. REVISED May the homeowners' exemption apply to a single-family structure and that amount of land needed to obtain the full \$7,000 exemption?

ANSWER: YES. The exemption may apply on the improvements and the land contained in a single parcel without regard to the size of the parcel or the percentage of interest owned in the property.

S3. May the homeowners' exemption apply to the improvements and the land on a separate parcel that is contiguous to, and owned by, the owner of a parcel that contains a dwelling eligible for the exemption?

ANSWER: NO. The exemption applies to the structure and the single-land parcel on which it is located.

S4. May the entire \$7,000 homeowners' exemption apply to the dwelling improvements and the land of a farm that contains a qualified owner-occupied dwelling?

ANSWER: YES. However, the exemption does not apply to that portion of the improvements and the land located on the same parcel as the dwelling that are leased or rented for grazing or other purposes to other persons.

S5. May the entire \$7,000 homeowners' exemption apply to the improvements and the land used as an owner-occupied dwelling and as an office or a store?

ANSWER: YES. The exemption does not apply to any portion of the improvements or land leased or rented to other persons.

S6. REVISED May a single-family residence that is owned and occupied by two or more owners receive more than one \$7,000 homeowners' exemption?

ANSWER: NO. However, each owner, other than one of the claimants and spouse, may wish to file a separate claim that could be "activated" the moment that the original claimant dies or moves from the dwelling; i.e., a mother and son are joint tenants; one moves--the exemption is continued if both had filed separate claims.

## Partnership

S7. Would a single-family residence which is owned by a partnership and occupied as their principal residence by all members of the partnership qualify for the homeowners' exemption?

ANSWER: YES. The single-family dwelling would be eligible for one homeowners' exemption. See S10 for two single-family residences.

S8. Would a single-family residence owned by a partnership and occupied by one of the partners qualify for the homeowners' exemption?

ANSWER: YES. The exemption applies if the partner who occupies the dwelling pays all of the expenses of maintaining the dwelling and pays no rent to the other partners.

## Two or More Single-Family Residences on One Parcel

S9. May a person obtain a homeowners' exemption on the total property included in an assessment where the person occupies a single-family residence but the assessment also covers additional detached dwellings that are leased or rented to other persons?

ANSWER: NO. The exemption applies to that portion of the assessment which represents the value of the owner's dwelling and the land which it is situated. It cannot be applied to the rental units or to the land on which they are situated. (See Letter to Assessors', dated June 15, 1973, titled "Application of Homeowners' Exemption in Segregations.")

S10. REVISED Would two single-family residences located on one parcel and owned by a partnership consisting of two partners qualify for the homeowners' exemption when each dwelling is occupied by a partner as his principal residence?

ANSWER: YES. Each single-family residence would be eligible for a \$7,000 homeowners' exemption. Two claims should be filed each listing a claimant and spouse (if applicable).

S11. May the \$7,000 homeowners' exemption be allowed on a single-family residence and the land it occupies if another single-family residence located on the parcel has been separately assessed as provided in Section 2188.2 of the Revenue and Taxation Code and has been allowed the homeowners' exemption?

ANSWER: YES. (See Part V, Veterans' Exemption.)



S12. Assume the same facts stated in question S11, above, except that the structures are separately owned but not separately assessed. Can an exemption be obtained on both structures?

REVISED

ANSWER: YES. However, proof of separate ownership should be demanded by the assessor. Neither owner can have veterans' exemption or disabled veterans' exemption applied on the land or improvements.

V. VETERANS' EXEMPTION (IN CONJUNCTION WITH THE HOMEOWNERS' EXEMPTION)

If the veterans' exemption is allowed on the improvements or the land contained in a single assessment, the homeowners' exemption may not be allowed on a dwelling that is otherwise qualified, and is located on the parcel; three exceptions to the prior statement follow. A homeowners' exemption may be allowed where:

1. the veterans' exemption is allowed only on personal property contained in the same assessment.
2. the veterans' exemption is applied to another structure on the parcel which is separately assessed under the provisions of Section 2188.2, Revenue and Taxation Code.
3. the veterans' exemption is applied to leased land separately assessed pursuant to Section 2188.4 of the Revenue and Taxation Code.

V1. May the homeowners' exemption be granted on a parcel of property containing the dwelling of an owner-occupant if the owner-occupant is granted the veterans' exemption on other property in the county or state?

ANSWER: YES.

V2. REVISED May a person who has been disqualified for the homeowners' exemption receive the veterans' exemption?

ANSWER: YES. A person must file the claim for veterans' exemption by April 15 to receive the full (100-percent) exemption of \$4,000; 80 percent (\$3,200) may be exempt if the claim is filed on or prior to December 1. The veterans' exemption is not applicable if a claim is filed subsequent to December 1.

V3. REVISED May the assessor allow the veterans' exemption on property on one parcel and the homeowners' exemption on property on another parcel if the parcels are contiguous, in the same ownership, and in one general use?

ANSWER: YES. The assessor should consider each parcel as a separate unit; he is not required to check contiguous parcels for the allowance of either the veterans' exemption or the homeowners' exemption. Only one exemption would apply if the dwelling straddles the parcel line. For maximum benefit, the \$7,000 homeowners' exemption should be claimed instead of the \$4,000 veterans' exemption; or if qualified for the \$40-\$60,000 disabled veterans' exemption, the disabled veterans' exemption should be claimed.

V4. REVISED There are two single-family dwellings assessed on one parcel. One of the owner-occupants is also the owner of the land. If either owner-occupant has been allowed the veterans' or homeowners' exemption on his separate dwelling, may the other owner-occupant be allowed the homeowners' exemption?

ANSWER: YES. There is no requirement that property be separately assessed to receive more than one homeowners' exemption. The homeowners' exemption test is ownership and occupancy. If we were to conclude that separate assessment is mandatory, exemption could be denied in one year and granted the next without any physical change in the property or any change in its ownership or occupancy, but solely on the basis of roll entries. NOTE: however, the veterans' exemption must not be applied to the land unless the properties are separately assessed. The homeowners' exemption may not apply to property on which an owner receives the veterans' exemption.

V5. There are two single-family dwellings, each separately owned by the occupant, but both located on land owned by one of the structure owners. Pursuant to Revenue and Taxation Code Section 2188.2, the assessor has separately assessed the structure owned by the person having no ownership interest in the land. Does receipt of the veterans' or the homeowners' exemption by one of the owner-occupants preclude the other from receiving the homeowners' exemption?

ANSWER: NO. Under the provisions of Section 2188.2, the structures are separate dwellings and each is qualified for exemption. The definition of dwelling would allow for exemption of land situated under a structure if that land is owned by the owner of the structure. The definition does not require that land be owned by the structure owner or that land even be involved; e.g., a boat used as a dwelling is exempt even if not located on land.

V6. REVISED There are two single-family dwellings owned by a father and a son, each of whom has an undivided interest in both structures and in the land on which they are located. One structure is occupied by the father, the other by the son. Can either or both obtain the homeowners' exemption on the structure he occupies if one or both received the veterans' exemption on either of the structures or on the land?

ANSWER: NO. If either joint owner has received a veterans' exemption on the structure he occupies or on the land, neither party may obtain the homeowners' exemption. For maximum benefits, each should file for the homeowners' exemption.

V7. REVISED A veteran and his mother each own an undivided one-half interest in a duplex and the mother lives in one side. The veteran has filed and received the \$4,000 veterans' exemption on one-half of the duplex and one-half of the land. May the mother receive the homeowners' exemption on her one-half of the duplex and one-half of the land?

ANSWER: NO. The maximum benefit (\$7,000 + \$7,000) will be received if each owner-occupant receives the homeowners' exemption. If the veteran lives elsewhere, the homeowners' exemption should be allowed on the property on the basis of the mother's filed homeowners' exemption claim in the amount of the \$7,000 homeowners' exemption.

V8. May a person who owns and occupies a building receive the homeowners' exemption on the improvements and the land if he is allowed the veterans' exemption on the personal property in his office or store which is located in the structure?

ANSWER: YES.

V9. May an owner-occupant receive the homeowners' exemption on a single-family dwelling that is owned in common with another person if the other person has filed a claim for the veterans' exemption on the property?

ANSWER: In this case, the assessor should allow the maximum exemption which is the homeowners' exemption (\$7,000) instead of the veterans' exemption (\$4,000). Both the homeowners' exemption and the veterans' exemption may not be applied on the same property.

V10. May a veteran who owns and occupies a duplex and receives the homeowners' exemption on his dwelling and the land it occupies also receive the veterans' exemption on the other dwelling unit and the land it occupies?

ANSWER: NO.

V11. May the veterans' exemption be applied on a dwelling that is unoccupied because it is under construction on the lien date (ineligible for the homeowners' exemption) if the homeowners' exemption is allowed on the land beneath a licensed trailer coach which is also located on the parcel?

ANSWER: NO

V12. REVISED May a person who has been disqualified for the veterans' exemption or the disabled veterans' exemption on a dwelling he owns and occupies receive the homeowners' exemption on the dwelling?

ANSWER: YES. He may receive the homeowners' exemption under the provisions of Section 255.2 of the Revenue and Taxation Code; the assessor must notify those applicants he finds ineligible for the veterans' exemption or the disabled veterans' exemption of his finding and must inform them that they have 15 days from the date of notification to file for the homeowners' exemption. The failure of the assessor to provide the notification will extend the filing period for those not notified to March 1 of the subsequent year. Not retroactive for prior years.

V13. May a veteran who has, as the result of an audit, been found ineligible for the veterans' exemption for one or more years in the past be given 15 days to file a homeowners' claim for all years that he is found ineligible for the veterans' exemption?

ANSWER: NO. The wording of Revenue and Taxation Code Section 255.2 precludes applying the homeowners' exemption to previous years. However, Section 255.2 does provide that the 15 days to file the homeowners' exemption does apply to the current year. Also, See V12 above.

V14. May a veteran who has received the homeowners exemption on his cabin located on federal land also receive the veterans' exemption on the possessory interest in the land?

ANSWER: NO. Also, see the answer to question P2.

V15. REVISED May a homeowners' exemption be allowed on any of the property contained in a parcel where a disabled veterans' property tax exemption has been allowed?

ANSWER: NO. California Constitution, Article XIII, Section 4(a) provides that veterans who are blind, or have lost the use of two or more limbs, or who are totally disabled may receive an exemption "unless the home is receiving another real property exemption."

V16. May the homeowners' exemption be allowed where a person was properly allowed (roll closed) the \$4,000 veterans' exemption and later wishes to cancel the veterans' exemption and file a late claim for 80 percent homeowners' exemption (maximum \$5,600 assessed value)?

ANSWER: YES. A person may, in writing, withdraw an exemption at any time; he may file for a different exemption provided there is statutory authority allowing late filing. The amount of exemption would be limited as provided in the late filing provisions under which the claim is filed.

X. EXEMPTION SUBVENTION-CERTIFIED CLAIM FOR REIMBURSEMENT OF PROPERTY TAX LOSS (TO STATE CONTROLLER; FILED BY COUNTY AUDITOR)

ASSESSORS TO SUPPLY STATE BOARD OF EQUALIZATION WITH INFORMATION

In order to assure the accuracy of the state's reimbursements for the homeowners' property tax exemption and to prevent duplications of the exemption and to prevent duplication of the exemptions within the state, Section 218.5 (Statutes 1970), Revenue and Taxation Code, provides that county assessors shall supply information from homeowners' property tax exemption claims and records as is specified by written request of the Board, with concurrence of the State Controller.

The State Board of Equalization, in annual letters to county assessors (letter 81/61, May 19, 1981; letter 80/93, June 13, 1980; letter 79/97, June 7, 1979) has requested the following information:

1. Social security number of each claimant and spouse.
2. First five characters of the last name for claimant and spouse.
3. The property identification--the parcel number.

The above procedure results in Multiple Claims Listings 1, 2, and 3.

X1. REVISED Must the assessor check grant deeds or other documents and check with other agencies prior to allowing the homeowners' property tax exemption?

ANSWER: Rule 135, Homeowners' Property Tax Exemption, lists the requirements of the assessor in distributing and processing the claim forms. Any other requirements must be made by the State Controller, the Board of Control, or related agencies. For information call the State Controller, Division of Audits, (916) 322-2585, or the Assessment Standards Division, (916) 445-4982.

X2. REVISED If the Homeowners' Multiple Claim Listing contains a duplicated social security number for an assessee who cannot be reached by the assessor, and the validity of the claim cannot be established through other means, should the exemption be cancelled pursuant to Section 531.6 of the Revenue and Taxation Code?

ANSWER: YES. An escape assessment should be made under the provisions of Sections 531.6, 531.1, and 531.2, Revenue and Taxation Code.

X3. Who should be contacted for information regarding the Homeowners' Multiple Claims Listing?

ANSWER: Questions should be directed to the:

State Board of Equalization  
Assessment Standards Division  
P. O. Box 1799  
Sacramento, California 95808

The telephone number is (916) 445-4982.



STATE BOARD OF EQUALIZATION  
1020 N STREET, SACRAMENTO, CALIFORNIA  
(PO BOX 1799, SACRAMENTO, CALIFORNIA 95808)



GEORGE R. REILLY  
First District, San Francisco

JOHN W. LYNCH  
Second District, Fresno

PAUL R. LEAKE  
Third District, Woodland

RICHARD NEVINS  
Fourth District, Pasadena

HOUSTON I. FLOURNOY  
Controller, Sacramento

H.F. FREEMAN.  
Executive Director

February 10, 1969

Attention:

Gentlemen:

Re: Homeowners' Property Tax Relief Payment

In your letter of January 22, 1969, addressed to Mr. Hugh Strachan, you posed several factual situations and requested our opinion as to who is the party eligible to claim the subject \$70 payment and who is the proper party to file the claim with the assessor. Although it results in a rather long reply, we are repeating, for the sake of clarity, the facts pre-sented.

A. BANK AS EXECUTOR OF AN ESTATE

Questions 1 & 2:

1. On March 1, 1968, John Doe owns and occupies a dwelling which is his principal place of residence. Subsequent to March 1, 1968, John Doe dies and the property is presently in his estate, but the dwelling is vacant since his death and is not left under Doe's will to an individual as his residence. Instead the home is simply an asset of the estate.
2. Assume the same set of facts as 1 above, except that John Doe died prior to March 1, 1968.

Answer to 1 & 2 combined:

Since Mr. Doe owned or occupied a dwelling on March 1, 1968, he satisfies the owner-occupant requirements for exemption. Since he is now dead, the executor of his estate should file a claim for exemption on behalf of the estate. It is immaterial as regards the receipt of the \$70 payment whether the dwelling is presently occupied or vacant or that Mr. Doe left the dwelling to a specified individual by will.

If we assume that Mr. Doe died prior to March 1, 1968, we would have to conclude that his failure to satisfy the owner-occupant qualification on that date prohibits granting the exemption to him. If, however, a co-owner or an heir was residing in the property on that date, that person could claim the exemption. It would be necessary to determine under the law of wills or the laws of succession who owned the property on the lien date. As you are no doubt aware, property is owned by an heir as of the date of the decedent's death.

Questions 3 & 4:

3. On March 1, 1968, John Doe, a married man with children, owns and resides in a dwelling which is his principal place of residence. Subsequent to March 1, 1968, John Doe dies and the dwelling is presently in his estate. However, the home is specifically devised under his will to his wife, and she is presently living there. Would the same result follow if the home was devised to the children and they were living there?
4. Assume the same set of facts as in 3 above, except that John Doe died before March 1, 1968.

Answer to 3 & 4 combined:

Here again, Mr. Doe's death subsequent to March 1, 1968, does not affect his eligibility for the \$70 payment. If the executor of the estate could file for the payment as indicated above, the fact that the home was devised under the will to his wife or his children would not be material if we assume that they had no ownership interest on the 1968 lien date. If the wife was a co-owner she could claim exemption in her own right.

If John Doe died before March 1, 1968, then the proper claimant would be any person who resided in the dwelling and had title to it on the 1968 lien date. If the estate is still in probate it would probably be best for the executor or administrator to file the claim on behalf of the estate. In this way the \$70 would be distributed as an estate asset and the wife and children would share the payment.

Questions 5 & 6:

1. John Doe is married to Jill Doe on March 1, 1968, and on that date both reside in a dwelling (which is held as community property) as their principal place of residence. Assume that John Doe dies on April 1, 1968 and devises his one-half of the community property to his children. Assume that under applicable law all of the community property is subject to probate in the husband's estate. Who is entitled to the refund-- the executor, the wife, or the children?
2. Assume the same set of facts as in 5 above, except that Jill Doe dies on April 1, 1968, and under applicable law only her one-half of the community property is subject to probate.

Answers to 5 & 6 combined:

Since both John Doe and Jill Doe are stated to be owner occupants of the property on March 1, 1968, either would be eligible to claim the exemption. The fact that John died April 1, 1968, would require that a claim be submitted by the executor of his estate or that the wife claim the exemption on her own behalf. There could not be two exemptions.

If we assume that all the community property is subject to probate in the husband's estate, no difference in our reply would result. The wife could claim because of her community property interest, or the executor or administrator of the estate could file on behalf of the husband's estate. The children would not be eligible for exemption since they were not owners on the lien date in 1968. If we assume that Jill Doe rather than John Doe died on April 1, 1968, either would, nevertheless, be eligible for the \$70 payment. It does not appear important that only her one-half of the community property might be subject to probate.

In both situations it appears preferable that the executor file for the exemption. This would seem the best way to prevent confusion and at the same time allow for the proper distribution of the payment.

B. A BANK AS TRUSTEE

Question 1:

On March 1, 1968, the bank is the trustee of an intervivos or testamentary trust which holds title to residential property. Beneficiaries of the trust reside in the dwelling, which they occupy as their principal place of residence on said date.

Answer to Question 1:

It is our opinion that since one or more of the beneficiaries of the trust are the owners of equitable interests in the dwelling and reside therein, it would be proper for the trustee to claim the exemption on behalf of the eligible beneficiary or beneficiaries. The trustee could file the claim in the name of the eligible party and indicate that it was doing so as trustee. A copy of the trust instrument should be made available and if requested be submitted along with the claim so that the assessor may satisfy himself that the beneficiaries do in fact have an ownership interest in the property even though legal title to the property is recorded in the name of the bank.

Question 2:

On March 1, 1968, John Doe owns and resides in a dwelling which is his principal place of residence. Subsequent to March 1, 1968, John Doe transfers title to the residence to a bank, as trustee of an intervivos trust. John Doe is a life beneficiary of the trust and reserves the right to live in the residence as his principal place of residence, which he is presently doing.

Answer to Question 2:

Since John Doe was the owner occupant of the property on March 1, 1968, he could claim the \$70 payment. If he were to file for the exemption payment, there is little doubt that the assessor would certify him as eligible in that his name would appear on the 1968 property tax rolls as the assessee of the property. His subsequent transfer of title to the property to a bank as trustee would not affect his eligibility. At the same time the appointment of a trustee after the eligibility date would enable the trustee to submit a claim on behalf of the trustor if he wished it that way. Here again, if the assessor requested it, a copy of the trust instrument would have to be submitted.

Question 3:

Assume the same set of facts as 2 above, except that John Doe provides in the trust instrument that another trust beneficiary may reside in the home as the beneficiary's principal place of residence, and the beneficiary is so residing.

Answer to Question 3:

Since the trust instrument which granted the right to reside in the home to another party was executed subsequent to the lien date, that person's occupancy of the home after March 1, 1968, would not affect Mr. Doe's eligibility. Mr. Doe would be the proper claimant and the trustee would not be involved. In subsequent years the trustee could file a claim on behalf of the life tenant beneficiary.

C. MISCELLANEOUS SITUATIONS

Question 1:

Assume that on March 1, 1968, John and Jill Doe, husband and wife, own and occupy as joint tenants a dwelling as their principal place of residence. On April 15 John Doe dies and Jill Doe takes the entire property by right of survivorship. Is Jill Doe entitled to the \$70 refund? If so, how should the claim for refund be filed?

Answer to Question 1:

Inasmuch as both John and Jill Doe were each qualified for exemption on the lien date in 1968, she could claim the exemption in her own right whether she now owns the entire property by right of survivorship or because of a provision in a will. Here again, she would most probably be one of the persons shown on the 1968 tax roll and could sign and file the claim without difficulty. In situations where property is owned by two persons, both of whom are eligible for exemption, a question does arise if one dies and leaves his interest to a third party. Should the third-party benefit from the fact that the former owner could have claimed the exemption or, stated another way, should benefits accruing to a property be divided proportionately among the present owners of that property? Since this example states that the wife becomes owner of the entire property, the question does not seem important. Owning all interest in the property, she alone should receive the payment.

February 10, 1969

Question 2:

Assume that John Doe occupies a dwelling as his principal place of residence on March 1, 1968. John Doe is the legal life tenant of the property and the remainder interest is held by Jill Doe. Jill Doe does not occupy the property. Who is entitled to the \$70 refund, and who may file the claim for refund?

Answer to Question 2:

As life tenant of the property, John Doe would be the proper party to claim the exemption. His life estate is an ownership interest which qualifies him and Jill Doe's non-occupancy disqualifies her. The life tenant should file the claim.

Questions 3 & 4:

- 3 Assume that John Doe owns and occupies a dwelling as his principal place of residence on March 1, 1986, prior to which time a bank had been appointed his conservator or guardian. May the bank file the claim for refund.
  
- 4 Assume the same facts as in 3 above, except that the bank was appointed conservator or guardian subsequent to March 1, 1968.

Answer to Questions 3 & 4:

Since John Doe is qualified for the \$70 payment, it does not seem material when the bank was appointed as conservator or guardian of his estate. If John is eligible for the payment but incompetent to claim it at the time he is required to do so, the bank should file the claim in its official capacity as conservator or guardian.

We concur in your opinion that whenever a trustee, guardian, etc., files on behalf of a person whose estate or affairs it is managing, it should make available documents which will enable the assessor to verify the trustee's authority to file the claim. It does not follow, however, that the documents should be presented with the claim, since the lack of time and personnel would make review and analysis of such documents impossible. Perhaps the best procedure would be to check with your assessor to determine his view of what evidence of authority would be acceptable.

Very truly yours,

J. J. Delaney  
Tax Counsel

October 23, 1970

Attention:

Dear

RE Homeowners' Exemption

As we understand your recent letter you are concerned with the proper application of the homeowners' exemption to a situation in which a husband and wife put their home in a trust: The husband has been appointed trustee and the wife is the trust beneficiary. Both husband and wife occupy the structure as their permanent residence.

It is our opinion that Mrs. Bennett, if otherwise qualified, is eligible the homeowners' exemption since she is, in fact, the owner of the structure. Mr. Bennett is not eligible to claim the exemption for himself but may file the exemption claim as trustee for the benefit of Sylvia E. Bennett.

Since the trust was established in 1963 it would have been appropriate for either the trustee or beneficiary to apply for the 1969 or 1970 homeowners' property tax exemption. Unfortunately, the period for filing such claims has expired and there is presently no statutory authority which approves late filing. The Bennett's must therefore lose the benefits for this exemption for these two years. Obviously, they should be sure to file during the period March 1—April 15, 1971, for the 1971-72 homeowners' exemption. We are not sending a copy of this letter to the Bennett's but are trusting that you, as their representative, will inform them of our conclusion.

Very truly yours,

J. J. Delaney  
Assistant Chief Counsel

JJD:shm  
bcc:

Messrs. Knowles, Hartigan, Bertane

Refer to the following excerpts from LTA 82/50 for information regarding,

Trusts

Trustee: E 14, and F 7

Beneficiary: E 4, E 7, and G 14



STATE BOARD OF EQUALIZATION  
1020 N STREET, SACRAMENTO, CALIFORNIA  
( P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808 )  
(916) 445-4982

GEORGE R. REILLY  
First District, San Francisco  
ERNEST J. DRONENBURG, JR  
Second District, San Diego  
WILLIAM M. BENNETT  
Third District, San Rafael  
RICHARD NEVINS  
Fourth District, Pasadena  
KENNETH CORY  
Controller, Sacramento  
DOUGLAS D. BELL  
Executive, Secretary

March 23, 1982

No 82/50

TO COUNTY ASSESSORS:

1982 HOMEOWNERS' EXEMPTION- - QUESTIONS AND ANSWERS

Here is an updated version of the questions and answers that reflect the Board's views on administration of the homeowners' exemption. The prior questions and answers were dated April 9, 1975; we have indicated in the margin "NEW" for a new question and "REVISED" where the concept has changed since 1975. Please inform your staff of these additions and revisions. We suggest you follow the information in this guide when processing current claims. Destroy, or mark as superseded, prior year's compilation.

Major amendments in the processing of homeowners' exemptions have occurred since 1975. The changes include:

1. Late filing. The deadline for filing remains 5:00 p.m., April 15, but late filing (for 80 percent of the exemption) is permitted through 5:00 p.m., December 1. The claimant no longer need establish good cause for late filing. See Letter to Assessors' 79/64, dated April 3, 1979.
2. One-time filing. For 1975 and thereafter, only an occupant who either acquired title to an eligible dwelling during the preceding assessment year or is otherwise seeking the exemption on a property not exempted in the prior year need file a claim. Filing before March 1 is permitted if the applicant is the owner of the property and intends to occupy the property by 12:01 a.m. on March 1.
3. Claims not open to public. The homeowners' exemption claim is not a public document. The assessor must provide names of homeowners' exemption recipients to the State Board of Equalization under the provisions of Section 218.5, Revenue and Taxation Code.



E. ESTATES, TRUSTS, POWER OF ATTORNEY, GUARDIAN (owner died, see G35)

E1. May an occupant of property who owns a life estate in that property receive the homeowners' exemption?

ANSWER: YES. An occupant remainderman (the person who acquires the property after the death of the owner of the life estate) may not receive the exemption under any conditions as long as the life estate interest exists.

E2. Must a life estate be segregated on the roll?

ANSWER  
REVISED

NO. The roll may contain the entire property value and the amount of the homeowners' exemption. The assessor's records will indicate the computations necessary to determine the value available for the exemption and the amount of the exemption allowed. It is not required, but preferable, that the name of the holder of the life estate appear on the roll; it is the holder's name and social security number that must be provided to the Board under the provisions of Section 218.5 of the Revenue and Taxation Code.

E3. May a homeowner who has a life estate in a home located on land owned by his brother receive the homeowners' exemption on the land?

ANSWER: NO. He may only receive the exemption on the home; no part of the exemption may apply to the land.

E4. May the exemption be applied where a deed absolute on its face is subject to an unrecorded trust agreement between a grantor and a grantee which creates a life estate and a right of revocation in the grantor?

ANSWER: YES. A well-known religious organization has been deeded property in this manner. The granter-beneficiary of the trust must sign the claim.

E5. May the homeowners' exemption be allowed on property where the trustor has created a revocable "living trust" and presently occupies the dwelling?

ANSWER: YES. This procedure is currently being followed to avoid probate proceedings upon the death of the trustor.

E6. May the homeowners' exemption be allowed on property where the trustor has created an irrevocable trust and presently occupies the dwelling?

ANSWER: Yes.

E7. Does the homeowners' exemption apply to property occupied by a beneficiary of a trust even though legal title may be held in trust by a bank?

ANSWER: YES. The occupant or the trustee could file the claim. The assessor should require the claimant to present a copy of the trust. The bank could file the claim on behalf of the beneficiary and sign as trustee of the property owned by the occupant beneficiary.

E8. If a person dies testate, when is a devisee or legatee considered to be the "owner" of the property?

ANSWER: Ownership transfers at the time of death. The administrative act of probate need not be final.

E9. If a person dies intestate, when is the heir considered to be the owner of the property?

ANSWER: At the time of death of the deceased.

E10. A person died intestate several years ago leaving a home that was his separate property. His widow has not put the property through probate proceedings but has continued to occupy the home. Is she entitled to the homeowners' exemption?

ANSWER: YES. A widow is one of the heirs at law to separate property owned by her husband at the time of his death. Property is owned by an heir as of the date of the decedent's death.

E11. A person dies intestate, leaving a home that was owned as community property or in joint tenancy with his wife. The estate is still unsettled on tax lien date. Is his widow entitled to the homeowners' exemption if she occupies the home on tax lien date?

ANSWER: Yes.

E12. A person dies intestate leaving a home that was owned in joint tenancy with a genetically unrelated person. The estate is still unsettled on tax lien date and the surviving joint tenant occupies the home. Is he automatically entitled to the homeowners' exemption?

ANSWER: NO. The survivor must file a homeowners' exemption claim form. The exemption is not automatically extended to a joint tenant who is not a widow or widower.

E13. A person dies intestate leaving a home that was owned in tenancy in common with his sister. The estate is still unsettled on tax lien date, and his sister occupies the home. Is she automatically entitled to the homeowners' exemption?

ANSWER: No. The sister must file a homeowners' exemption claim form.

E14. Are there preferable ways in which a trustee, guardian, or conservator should sign an exemption claim?

ANSWER: YES. The law does not specify how a claim is to be signed in such situations, but we suggest the following:

- a. Estate of John Doe  
by X bank, Executor or Administrator of the estate of John Doe. (this form would be used if John Doe died after the lien date but was an owner-occupant upon his death.)

E15. A person dies intestate leaving a home that was owned in partnership with several genetically unrelated persons. There is nothing in the partnership agreement about rights of survivorship. The estate is still unsettled on the tax lien date and one of the surviving partners occupies the home. Is he automatically entitled to the homeowners' exemption?

ANSWER: NO. He must file a homeowners' exemption claim form. He is then eligible if he occupies the dwelling, pays all of the expenses of maintaining the dwelling, and pays no rent to the other partners.

E16. May a person holding a power of attorney execute the claim form for a qualified owner-occupant?

ANSWER: YES. See our Letter to Assessors', dated February 5, 1970, titled "Homeowners' Exemption-Filing by Legal Representative."

E17. How should the executor of an estate or the guardian of a minor or incompetent's complete the form for the 1982 home-owners' property tax exemption?

ANSWER: He should add "Estate of—" in front of the minor's or incompetent's name and sign his own name as "Executor for the Estate of ... " or in the case of guardianship, sign his ward's name and his own as guardian for the owner-occupant ward.

F6. REVISED Must the names of all claimants of exemptions for a single parcel, whether a single or multiple-dwelling, appear on the assessment roll?

ANSWER: No. Only the total amount of the exemptions need appear on the roll; if it is feasible to list all claimants, do so. Otherwise, the assessor must identify the name of each claimant on a subsidiary public record arranged in parcel number order to which the public has access. However, the assessor must report a social security number or numbers for each exemption to the state. He must ensure his records indicate the name and address or apartment number of each claimant and the amount of each exemption allowed. Beginning with 1974-75, the homeowners' exemption claims, and records are no longer open to public inspection if they include the social security number of the claimant and/or spouse.

F7. May the homeowners' exemption be allowed where the claimant has completed the claim form but has failed to sign the claim?

ANSWER: NO. An unsigned claim may not be allowed. However, if the claimant has filed a timely claim, the assessor may allow a reasonable extension of time for the claimant to provide required information or to sign the claim. Only one extension shall be allowed, and with exception (see Section 255 .1 of the Revenue and Taxation Code), the extension shall not go beyond October 15 which is six months from the due date of the claim. A trustee or other agent may act for the claimant who is unable to complete the form.

F8. May the homeowners' exemption be transferred from one property owned and occupied by the claimant on the lien date to a property to which the claimant has subsequently moved?

ANSWER: NO.

F9. How is it possible to determine whether a unit eligible for the homeowners' exemption exists in a commercial structure in order to mail a claim form as required by Section 255.3 of the Revenue and Taxation Code?

ANSWER: Section 255.3 requires the claim form be mailed to a person acquiring and recording title to an eligible dwelling since the preceding lien date. If the newly acquired structure is not of a type which might reasonably be expected to contain an eligible dwelling unit, the assessor may rely on newspaper articles and spot announcements on radio and television to alert potential claimants.

G12. What type of documentation should an assessor require from a person claiming ownership of a structure located on land owned by another; e.g., when a son claims ownership of a home on land owned by his father?

ANSWER: Request a written statement of separate ownership in accordance with Section 2188.2 of the Revenue and Taxation Code. The statement need not be recorded. Though not legally required, it is best that both parties sign the agreement.

#### Social Security Account Number

G13. Must a claimant provide his social security number? He may feel that an assessor has no legal authority to require the social security number.

ANSWER: YES. A claimant may choose not to reveal his social security number and waive the exemption (see Section 260, Revenue and Taxation Code). The claim containing the social security number is confidential information and not open to public inspection. There is nothing in federal law which prohibits an individual from divulging his number. Reference: State Board of Equalization Letter to Assessors' dated 4-22-71. Revenue and Taxation Code, Section 218.5 provides, in part, "The board (SBE) may specify that the information (on the form) include all or part of the names and social security numbers of claimants and spouses..." (clarification added)

G14. Whose social security number is listed if a person or corporation other than the occupant files a claim on behalf of the owner or beneficiary?

ANSWER: The social security number of the occupant; the word "NONE" should be entered if he has no number.

Temporarily Away

G15. May a person who is temporarily away from his residence, and the residence was not leased or rented to others on the lien date, qualify for the homeowners' exemption?

ANSWER: YES. An absence of more than one year would raise considerable doubt that this is the principal residence.

G16. May a person who is unable to occupy the home he owns during the winter because it is snowed-in, and who obtains temporary residence elsewhere, qualify for the exemption?

ANSWER: YES. The person should demonstrate that he returns to his home when possible to do so. The exemption does not extend to property, which is a vacation or second home, but temporary absences because of fire, flood, or snow do not change the status of a principal place of dwelling.