

State of California

BOARD OF EQUALIZATION

PROPERTY TAX RULES

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

Rule 140. Welfare Exemption Requirements for Low-Income Housing Properties.

Authority: Section 15606, Government Code.

Reference: Section 214, Revenue and Taxation Code.

(a) DEFINITIONS. The definitions set forth in this regulation shall govern the construction of Revenue and Taxation Code section 214, subdivision (g):

(1) "Low-income housing tax credits" means that the property owner is eligible for and receives state low-income housing tax credits pursuant to Revenue and Taxation Code sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5 or federal low-income housing tax credits pursuant to section 42 of the Internal Revenue Code.

(2) "Government financing" means financing or financial assistance from local, state or federal government used for the acquisition, rehabilitation, construction, development, or operation of a low-income housing property in the form of: (1) tax-exempt mortgage revenue bonds; (2) general obligation bonds; (3) local, state or federal loans; (4) local, state or federal grants; (5) any loan insured, held, or guaranteed by the federal government; or (6) project-based federal funding under section 8 of the Housing Act of 1937. The term "government financing" does not include properties that solely receive federal rental assistance through tenant rent-subsidy vouchers under section 8 of the Housing Act of 1937.

(3) "Other legal document" means a document that is adopted as a resolution or statement of policy by an organization's board of directors, or executed by an organization's chief executive officer, provided that the board of directors has delegated this authority in writing to the chief executive officer, that restricts the property's use to low-income housing, such that a minimum of 90% of the units of the property are made continuously available to or occupied by lower income households at rent levels that do not exceed those prescribed by section 50053 of the Health and Safety Code.

(4) "Lower income households" means "lower income households" as defined by section 50079.5 of the Health and Safety Code.

(5) "Recorded deed restriction" means a deed recorded as an encumbrance against title to the property in the official records of the county in which the property is located, which specifies that all or a portion of the property's usage is restricted to rental to lower income households and identifies the number of units restricted to use as low-income housing.

(6) "Regulatory agreement" means an enforceable and verifiable agreement with a government agency that has provided low-income housing tax credits or government financing for the acquisition, rehabilitation, construction, development or operation of a low-income housing property that restricts all or a portion of the property's usage for rental to lower income households. The regulatory agreement shall identify the number of units restricted for use as low-income housing, specify the maximum rent allowed for those units, and be recorded in the county in which the property is located. Until such time as the Regulatory Agreement is finalized and recorded, the Preliminary Reservation Letter from the California Tax Credit Allocation Committee or California Debt Limit Allocation Committee Bond Cap Allocation Letter is acceptable.

(b) QUALIFIED CLAIMANTS. Claimants may qualify for the welfare exemption for low-income housing properties provided that the requirements set forth in either (1) or (2) below are met:

(1) All claimants listed under Revenue and Taxation Code section 214, subdivision (g)(1) as a qualifying organization, including limited partnerships in which the managing general partner is an eligible nonprofit corporation or an eligible limited liability company, may qualify for the exemption for a particular property provided that:

- (A) the claimant receives low-income housing tax credits or government financing for the particular property; and
- (B) the property is subject to a recorded deed restriction or a regulatory agreement which is recorded in the county in which the property is located.

(2) All low-income housing properties, subject to restrictions imposed by any other legal document, defined in subdivision (a)(3) above, owned by claimants listed under Revenue and Taxation Code section 214, subdivision (g)(1) as a qualifying organization, other than limited partnerships in which the managing general partner is an eligible nonprofit corporation or an eligible limited liability company, qualify for the welfare exemption but the amount of the exemption shall not exceed \$20,000,000 in assessed value for a single claimant with respect to a single or multiple properties as provided in Revenue and Taxation Code section 214, subdivision (g)(1)(C).

(c) LOW-INCOME HOUSING TAX CREDITS AND GOVERNMENT FINANCING. For purposes of subdivision (b)(1)(A) above, a property has low-income housing tax credits or government financing, as defined in subdivisions (a)(1) and (a)(2), respectively, for the period of time that a regulatory agreement or recorded deed restriction restricts the use of all or any portion of the property for rental to lower income households even if the government financing has been refinanced or has been paid in full, or the allocation of the low-income housing tax credits has terminated or expired, provided that the government agency that is a party to the regulatory agreement continues to monitor and enforce compliance with the terms of the regulatory agreement.

(d) PERCENTAGE OF UNITS AND RENT.

(1) For claims qualifying under subdivision (b)(1) above, an exemption shall be granted equal to that percentage of the value of the property, which is made continuously available for rental to or occupied by lower income households at rents that do not exceed those prescribed by section 50053 of the Health and Safety Code, or, to the extent that the terms of the regulatory agreement or recorded deed restriction conflict with section 50053, rents do not exceed those prescribed by such terms.

(2) The percentage of the value of the property qualifying for the exemption is based on the actual use of the property for rental to lower income households for the qualifying rent, and is not limited to the percentage designated for use by lower income households in the regulatory agreement, recorded deed restriction, or other legal document. Units reserved for the resident property manager are included in the percentage of units that qualify for the exemption.

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