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7 **BOARD OF EQUALIZATION**
8 **STATE OF CALIFORNIA**

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10 In the Matter of the Appeal of:

) **HEARING SUMMARY²**

) **HOMEOWNERS AND RENTERS**
) **PROPERTY TAX ASSISTANCE APPEAL**

11
12 **ASUNCION P. HAMOY¹**

) Case No. 437618
13)
14)

	<u>Year</u>	<u>Claim Amount</u>
	2007	\$347.50

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17 Representing the Parties:

18 For Appellant: Asuncion P. Hamoy

19 For Franchise Tax Board: Rachel Abston, Legal Analyst
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21 QUESTION: Whether respondent properly denied appellant's claim for property tax assistance.

22 HEARING SUMMARY

23 Background

24 Appellant, a renter claimant, claimed Homeowners and Renters Property Tax Assistance
25 (HRA) for 2007. On the claim form, appellant stated that she lived at a qualified residence (on South
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27 ¹ Appellant currently resides in San Jose, California.

28 ² This appeal was postponed from the April 29, 2009 oral hearing calendar at appellant's request and rescheduled to the September 22-24, 2009 calendar.

1 Loma Drive in Los Angeles) from January 1, 2006 through December 31, 2006. The Franchise Tax
2 Board (FTB or respondent) issued a notice which denied assistance because appellant's reported address
3 was allegedly not subject to property tax. Appellant filed this timely appeal.

4 On appeal, appellant asserts that she should not be punished because her landlord does
5 not pay property taxes on his property. She feels that she does not share the tax benefit given to her
6 landlord by the government. As such, she requests that the property tax payment requirement be waived
7 and her HRA claim allowed.

8 Respondent asserts that since appellant did not live in a qualified rented residence in
9 2006, she is not entitled to renters' assistance for the 2007 claim year. The FTB's electronic "exempt
10 property file" lists appellant's residence as being exempt from property tax. Respondent also provides a
11 document from the Los Angeles County Assessor's office which confirms that appellant's residence is
12 fully tax-exempt for the fiscal year 2006/2007.

13 Applicable Law

14 Revenue and Taxation Code (R&TC) section 20541 permits certain renters of residential
15 dwellings to claim property tax assistance from the State of California; under R&TC section 20544 the
16 amount of assistance is a specified percentage of \$250, determined according to the claimant's income.
17 The maximum amount of assistance that a claimant may receive for a 2007 claim is 139 percent of
18 \$250.00 (139% x \$250.00), which is \$347.50. (Rev. & Tax. Code, § 20544, subd. (a)(2).) A renter-
19 claimant must live in a residence on which property taxes are paid, or on which "substantially
20 equivalent" payments in lieu of taxes are made. (Rev. & Tax. Code, § 20509.) The purpose of the HRA
21 law is to provide assistance with the payment of property taxes. Payments in lieu of taxes must be at
22 least 80 percent of the amount of taxes paid by a property of comparable assessed value to be
23 "substantially equivalent." (*Appeals of Helen Cantor, et al.*, 2002-SBE-008, Nov. 13, 2002.)³ A
24 claimant must be an individual who is at least 62 years old, blind, or disabled as of December 31 of the
25 year prior to the claim year at issue (e.g. December 31, 2006), is a member of the household, and is the
26 renter of a rented residence. (Rev. & Tax. Code, § 20505, subd. (a).) In addition, a claimant must pay at
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28 ³ Board of Equalization cases are generally available for viewing on the Board's website (www.boe.ca.gov).

1 least \$50 a month for rent to qualify. (Rev. & Tax. Code, § 20510.)

2 The Board presumes the FTB’s denial of assistance was correct, and appellant has the
3 burden of proving error. (*Appeals of Jeremiah Xavier Spicer, et al.*, 2001-SBE-003, May 31, 2001.)
4 Further, each tax year must be examined individually and considered on its own merits (see *Appeal of*
5 *Duane H. Laude*, 76-SBE-096, Oct. 6, 1976); this rule applies to HRA appeals as well (see *Appeals of*
6 *Helen Cantor, et al., supra*, at fn.4)

7 STAFF COMMENTS

8 It does not appear appellant qualifies for assistance for the 2007 claim year because she
9 lived at a residence that was tax exempt during the 2006/2007 fiscal year. Appellant contends it is
10 unfair to punish her because her landlord receives a tax benefit. Staff notes that if appellant wants to
11 change the law regarding tax-exempt properties, the correct forum to use is the Legislature.

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