State of California

Board of Equalization
Legal Division

Memorandum

RECEIVED
JUN 11 1998
Policy, Planning & Standards Div.
State Board of Equalization

To: Mr. Pete Gaffney

Date: June 8, 1998

From: Ken McManigal
Supervising Tax Counsel

Subject: **Revenue and Taxation Code Section 205.5, subdivision (c), formerly Section 205.5, subdivision (d)**

This is in response to your request that we review the second Question and Answer in the October 6, 1989, Letter to Assessors No. 89/77, Disabled Veterans' Exemption: Eligibility of Unmarried Surviving Spouse:

Question: A veteran receives a 30% disability due to a service connected disease (for example, malaria) as determined by the Veterans' Administration and is thus ineligible for the Disabled Veterans' Exemption. The veteran subsequently dies as a result of that disease. Is the unmarried surviving spouse eligible for the exemption?

Answer: Yes. Revenue and Taxation Code 205.5(c) provides the exemption to the unmarried surviving spouse of a veteran that: (1) qualified for the exemption during his or her lifetime, (2) would have qualified if he or she had been alive on January 1, 1977, or (3) died from a service connected disease. While the first two instances require that the veteran had to qualify for the exemption (i.e., be rated as 100% totally disabled), the latter instance only requires that the veteran died of a disease which was service connected. Thus, in this latter instance, the unmarried surviving spouse may be eligible for exemption even though the veteran was not.

For the reasons hereinafter set forth, the answer is correct, and an unmarried surviving spouse is currently eligible for exemption on assessed value of up to $100,000 on his or her residence.

Attached in this regard are copies of the following documents:

1. Section 205.5 as amended by Stats. 1978, Ch. 1276, in effect January 1, 1979. Added to subdivision (d) thereof, at the end of the subdivision, was the following:

> "or provided that the veteran died from a disease which was service-connected as determined by the Veterans Administration. The exemption shall be fifteen thousand dollars ($15,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585."

2. March 7, 1984, letter from Gregory Smith, San Diego County Assessor, to Verne Walton re Section 205.5, subdivision (d).

3. April 12, 1984, memorandum from Verne Walton to Richard Ochsner re Section 205.5, subdivision (d).

4. May 9, 1984, memorandum from me to Verne Walton in response.

5. Undated letter from Bill Minor to Gregory Smith "in response to your March 7, 1984, letter," 2. above.

Analysis

A. In 1978, Section 205.5, subdivision (d) provided as to principal places of residences of unmarried surviving spouses:

> (d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977.

Thus, exemption on assessed value of up to $10,000 on a residence was available to an unmarried surviving spouse provided that the deceased veteran (1) during his or her lifetime qualified for the exemption or (2) would have qualified for the exemption under the laws in effect on January 1, 1977, except that the veteran died prior to January 1, 1977.

As indicated above, Stats. 1978, Ch. 1276 added to subdivision (d) the following:

> or provided that the veteran died from a disease which was service-connected as determined by the Veterans Administration.

As the result, exemption on assessed value of up to $10,000 on a residence was also available to an unmarried surviving spouse if the veteran died from a disease which was service-connected as determined by the Veterans Administration.

Presumably, Assessment Standards Division utilized this interpretation when advising assessors concerning unmarried surviving spouses and the availability of the exemption. In 1984, Verne Walton asked the Legal Section whether the following interpretation of Section 205.5, subdivision (d) was correct:

> "...you asked if the widow of a veteran who died of a disease which was service connected can receive the Disabled Veterans' Exemption when the veteran had not been rated as totally disabled prior to his death. Section 205.5(d) provides the exemption to the unmarried surviving spouse of a veteran that (1) qualified for the exemption during his or her lifetime, (2) would have qualified if he or she had been alive on January 1, 1977, or (3) died from a service-connected disease. While the first two instances require that the veteran had to qualify for the exemption (i.e., be rated as 100% totally disabled), the latter instance only requires that the veteran died of a disease which was service-connected. The requirements of Section 205.5(f) would affect only the first two instances."

In my May 9, 1984, memorandum in response, I stated:

> "Although this interpretation produces an unusual result, it is correct in that Section 205.5(d) provides that property owned by and which is the principal place of residence of the unmarried surviving spouse of a veteran is exempt from taxation (up to $40,000) provided that the veteran died from a disease which was service-connected as determined by the Veterans' Administration. Thus, while a veteran having a service-connected disease is not eligible for the exemption unless he has a service-connected disability rating of 100 percent, if the veteran dies from the disease, his surviving spouse can be eligible for the exemption."

The undated letter from Bill Minor to Gregory Smith, 5. above, is to the same effect.

As also indicated above, Section 205.5, subdivision (d), initially provided for exemption on assessed value of up to $10,000 on a residence of an unmarried surviving spouse. Stats, 1978,

Ch. 1207, in effect January 1, 1979, operative January 1, 1981, substituted $40,000 for $10,000 in subdivision (d), hence the reference to $40,000 in the May 9 memorandum:

> (d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars (40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans Administration. The exemption shall be sixty thousand dollars ($60,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

Stats. 1984, Ch. 332, in effect January 1, 1985, added to subdivision (d) the following, after "on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000):

> in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or one hundred thousand dollars $100,000), in the case of a veteran who was totally disabled;

Thus, the distinction was made as to the amount of excludable full value between veterans who were blind or had lost the use of limbs ($40,000) and veterans who were totally disabled $100,000):

> (d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or one hundred thousand dollars ($100,000), in the case of a veteran who was totally disabled; provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service

> connected as determined by the Veterans Administration. The forty thousand dollars $40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

While making the distinction, however, the Legislature did not specify which amount of excludable full value, $40,000 or $100,000, would be available to properties of unmarried surviving spouses of veterans who died from diseases which were service connected as determined by the Veterans Administration. However, in the February 22, 1985, letter to Assessors No. 85/20, Disabled Veterans Property Tax Exemptions, copy attached, wherein Stats. 1984, Ch. 1332 was discussed, it was stated:

> "While this bill increases the amount of exemption to $100,000 and removes the income test for those claimants who are rated as totally disabled, the $40,000 or $60,000 (with income limits) exemptions remain in the law for claimants eligible for the exemption due to blindness or the loss of use of two or more limbs. However, the Veterans Administration makes no such distinction and defines veterans who are blind in both eyes or have lost the use of two or more limbs as totally disabled. Thus, virtually all claimants will be eligible for the $100,000 exemption."

Presumably then, assessors thereafter excluded up to $100,000 full value for properties of unmarried surviving spouses of veterans who died from service-connected diseases. I do not recall anyone, unmarried surviving spouse, assessor, or assessor's staff member, inquiring as to how much full value for properties of such unmarried surviving spouses would be excluded.

B. Stats. 1988, Ch. 411, in effect January 1, 1989, relettered former subdivision (d) as subdivision (c):

> (c) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or one hundred thousand dollars ($100,000), in the case of a veteran who was totally disabled; provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have

> qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service connected as determined by the Veterans Administration. The forty thousand dollars $40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

C. Stats. 1993, Ch. 140, in effect January 1, 1994, established former subdivision (c) as paragraph (1) of subdivision (c), and added paragraph (2) to subdivision (c):

> (c)(1) Property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or one hundred thousand dollars ($100,000), in the case of a veteran who was totally disabled; provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service connected as determined by the Veterans Administration. The forty thousand dollars $40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.
>
> (2) Commencing with the 1994-95 fiscal year, property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran as described in paragraph (2) of subdivision (b) is exempt from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars ($100,000). The one hundred thousand dollar ($100,000) exemption shall be one hundred fifty thousand dollars ($150,000), in the case of an eligible unmarried surviving spouse whose household income as specified in

> Section 20504 does not exceed the amounts specified in Section 20585.

The addition of paragraph 2 is further evidence that the Legislature intended that up to $100,000 full value for properties of unmarried surviving spouses of veterans who died from service-connected diseases be excludable from full value. By that paragraph and its reference to paragraph 2 of subdivision (b), up to $100,000 of the full value of the residence of an unmarried surviving spouse of a person who was on active duty in military service is excludable if the person/former spouse died as the result of a service-connected disease.

D. Finally, Stats. 1996, Ch. 1087, in effect January 1, 1997, substituted "United States Department of Veterans Affairs' for "Veterans Administration", and created subparagraphs (A) and (B) of paragraph (1) with the former text of paragraph (1):

> (c)(1) Property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or one hundred thousand dollars ($100,000), in the case of a veteran who was totally disabled provided that either of the following conditions is met:
>
> (A) The deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977.
>
> (B) The veteran died from a disease which was service connected as determined by the Veterans Administration. The forty thousand dollars $40,000) exemption shall be sixty thousand dollars ($60,000), and the one hundred thousand dollar ($100,000) exemption shall be one hundred fifty thousand dollars ($150,000), in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.
>
> (2) Commencing with the 1994-95 fiscal year, property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran as described in paragraph (2) of subdivision (b) is exempt from taxation on that part of the full value of the residence that does not exceed one

> hundred thousand dollars ($100,000). The one hundred thousand dollar ($100,000) exemption shall be one hundred fifty thousand dollars ($150,000), in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

Again, presumably, assessors are excluding up to $100,000 full value for properties of unmarried surviving spouses of veterans who have died from service-connected diseases, LTA No. 85/20, above. I am not aware of any inquiries in this regard.

JKM:ba
Attachments

cc: Mr. Dick Johnson
Mr. Rudy Bischof
Mr. David Gau
Ms. Jennifer Willis
precednt\genexemp\1998\98006.jkm

'ATE OF CALIFORNIA

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Executive Director

October 6, 1989

NO. 89/77

TO COUNTY ASSESSORS:

DISABLED VETERANS' EXEMPTION: ELIGIBILITY OF UNMARRIED SURVIVING SPOUSE

Recently, two questions have resurfaced concerning the eligibility of an unmarried surviving spouse for the Disabled Veterans' (property tax) Exemption. For the benefit of others who may have similar situations, the questions and our responses are as follows:

Question: The unmarried surviving spouse of a totally disabled veteran qualifying for and receiving the Disabled Veterans' Exemption remarries and loses the exemption. Upon divorce from, or the death of, the second spouse, should eligibility for the exemption be restored?

Answer: Yes. Both the California Constitution (Article XIII, Section 4(a), and Revenue and Taxation Code Section 205.5 provide the exemption is available to the "unmarried surviving spouse". Therefore, the exemption is lost only during the period(s) of (re)marriage.

Question: A veteran receives a 30% disability due to a service connected disease (for example, malaria) as determined by the Veterans' Administration and is thus ineligible for the Disabled Veterans' Exemption. The veteran subsequently dies as a result of that disease. Is the unmarried surviving spouse eligible for the exemption?

Answer: Yes. Revenue and Taxation Code 205.5(c) provides the exemption to the unmarried surviving spouse of a veteran that: (1) qualified for the exemption during his or her lifetime, (2) would have qualified if he or she had been alive on January 1, 1977, or (3) died from a service connected disease. While the first two instances require that the veteran had to qualify for the exemption (i.e., be rated as 100% totally disabled), the latter instance only requires that the veteran died of a disease which was service

connected. Thus, in this latter instance, the unmarried surviving spouse may be eligible for exemption even though the veteran was not.

If you have any questions concerning the above, please contact our Exemption Unit at (916) 445-4982.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:wnc
AL-28-0128E

205.5. Disabled veterans' residences. [Repealed by Stats. 1974, Ch. 311, p. 592, in effect January 1, 1975.]

205.5. Disabled veterans' residences. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be fifteen thousand dollars ($15,000) in the case of such a veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) No veteran shall be eligible for this exemption unless he or she was a resident of California at the time of his or her entry into military or naval service, or unless he or she was a resident of the state on November 7, 1972, if he or she is blind or has lost the use of two or more limbs, or on January 1, 1975, if he or she is totally disabled; provided however, that no veteran who met a corresponding residency requirement under the law in effect prior to January 1, 1975, shall lose eligibility as the result of changes in residency requirement effective on January 1, 1975, or thereafter.

(d) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the assessed value of the residence that does not exceed ten thousand dollars ($10,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service-connected as determined by the Veterans Administration. The exemption shall be fifteen thousand dollars ($15,000) in the case of such an unmarried surviving spouse whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(e) As used in this section, "property which is owned by a veteran" or

"property which is owned by the veteran's unmarried surviving spouse" includes:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property;

(2) Property owned by the veteran or the veteran's spouse as separate property;

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse;

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse;

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the assessed value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by such corporation shall reflect an equal reduction in any charges by such corporation to the person who, by reason of qualifying for the exemption, made possible such reduction for the corporation.

(f) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(g) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

History.—Added by Stats. 1974, Ch. 311, p. 592, in effect January 1, 1975. Stats. 1975, Ch. 862, p. 1449, in effect September 16, 1975, added "or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation" after "disability at 100 percent" in subdivision (b). Stats. 1976, Ch. 47, p. 77, in effect March 17, 1976, deleted "(q)," after "(p)," in subdivision (a); and added "or the military service from which such veteran was discharged" after "Administration", and substituted "substantially" for "substantial" in subdivision (b). Stats. 1976, Ch. 681, p. 1077, in effect January 1, 1977, relettered the former subdivisions (b), (d), and (e) as subdivisions (f), (e), and (g), respectively; revised subdivisions (a), (c), (e), and

(g); added the balance of subdivision (c) after "disabled"; added the balance of the second sentence of subdivision (g) after "of this section"; and added subdivisions (b) and (d). Stats. 1977, Ch. 361, in effect January 1, 1978, substituted "exempted" for "exempt" in subdivision (a), substituted "(c)" for "(a)" in subdivision (b), and substituted "or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977." for "under the laws in effect during his or her lifetime." in subdivision (d). Deleted "subsection" in the second and third sentence of paragraph (5) of subdivision (e) and replaced it by "paragraph". Deleted "(q)," after "(p)" and corrected "coown" to "co-own" in subdivision (g). Stats. 1978, Ch. 1276, in effect January 1, 1979 added the clause regarding disability caused through disease; added the last sentence of subdivision (a) and the provision following the January 1, 1977, date in subdivision (d).

Note.—Section 7 of Stats. 1975, Ch. 662, provided that no appropriation shall be made pursuant to Section 1 of this act because there are minor savings as well as minor costs in this act which, in the aggregate, do not result in significant identifiable cost changes. Section 3 of Stats. 1976, Ch. 681, p. 1679, provided no payment by state to local governments because of this act. Sec. 4 thereof provided that this act shall have prospective application only.

205.7. **Blind veterans' residences.** [Repealed by Stats. 1975, Ch. 224, p. 602, in effect January 1, 1976.]

205.8. **Blind veterans' residences owned by corporations.** [Repealed by Stats. 1973, Ch. 16, p. 23, in effect April 4, 1973.]

COUNTY OF SAN DIEGO

OFFICE OF THE ASSESSOR
1600 PACIFIC HIGHWAY, ROOM 110
SAN DIEGO, CA 92101-2480
(619) 236-3771

GREGORY J. SMITH
COUNTY ASSESSOR

March 7, 1984

RECEIVED
MAR 9
Division of Assessment Standards
SACRAMENTO

Mr. Verne Walton, Chief
Assessment Standards Division
State Board of Equalization
1020 N. Street, P. O. Box 1799
Sacramento, CA 95808

Dear Mr. Walton:

The following exemptions questions have arisen which are not clearly addressed by legislation or SBE guidelines.

(1) Situation - A property is sold January 1984 on which there is no existing exemption. The new owner moves in before the 90 days but after March 1, 1984. The claim is filed in a timely manner and the exemption is allowed on the supplemental roll. However, since the claimant did not occupy the property on March 1, can the exemption be carried over from the supplemental roll to the 1984 preliminary (R & T Code 601) roll as implied in "one time" filing? State Board forms SBE AH 2616 (Disabled Veteran Exemption Instructions) and SBE AH 266 (Homeowners' Exemption Instructions) seem to imply that the exemption can be carried forward. What authority should be used to allow the exemption on the roll being prepared?

(2) Situation - Can a widow of a Disabled Veteran who died of a disease which was service connected receive the Disabled Veteran Exemption when he had not been rated by the Veterans' Administration prior to his death? She qualifies for the exemption in all other respects. Revenue and Taxation Code 205.5 (d) seems to imply that the exemption can be allowed while (f) requires that there had to be a rating of 100%. The pertinent documents are enclosed for your review.

We would appreciate guidance from the Board on these two situations. Lucy Skatzes is available at (619) 236-3135 if further details are required.

Sincerely,

GREGORY J. SMITH
County Assessor

GJS:bfn
Enclosures

ate of California

Board of Equalization

lemorandum

Mr. Richard Ochsner

Date : April 12, 1984

om : Verne Walton

bject: Disabled Veterans' Exemption - Interpretation of Section 205.5(d)

Please review the enclosed correspondence and advise us it high blood pressure qualifies as a disease and if our interpretation of Section 205.5(d) is correct.

While the intent of the legislature may have been to grant the exemption to the widow of a veteran who, for example, contacted malaria while in the service and subsequently dies as a result of malaria, we are not sure they intended for "disease" to include such things as high blood pressure.

To our knowledge, this is the first time this question has been raised and we would appreciate your opinion. We note the date of death was April 20, 1977 and the date of the rating decision was June 30, 1977. We also note that the rating decision form confirms the veteran had high blood pressure both before and after the March 31, 1957 discharge date but does not identify the condition as a "disease."

VW:sk
Attachments

Verne

cc: Mr. Gordon Adelman
Mr. Robert Gustafson
Mr. Bill Minor

RECEIVED
APR 12 1984
G. A. LEGAL

Mr. Verne Walton May 9, 1984

Ken McManigal

Disabled Veterans' Exemption -
Interpretation of Section 205.5(d)

This is in response to your April 12, 1984, memorandum to Richard Ochsner wherein you asked whether "disease" as used in Section 205.5 includes high blood pressure/hypertension.

Review of our 1978 bill files discloses nothing in the AB 955/Stats. 1978, Ch. 1276 bill file pertaining to the scope of, definition of, etc. "disease." That the bill itself did not attempt to define "disease" was noted in an October 17, 1978, memorandum from Bob Milam to Bill Grommet, wherein it was stated that any disease which totally disables a person and which is incurred while in military service would qualify a veteran for the exemption.

"Disease" is, of course, defined in medical reference books, but in the books I examined, Dorland's Illustrated Medical Dictionary, 26th Edition (1981), Stedman's Medical Dictionary Illustrated, 23rd Edition (1976), and American Medical Association Family Medical Guide (1982), I found nothing to indicate (or suggest) that hypertension is a "disease." Accordingly, I would conclude that "disease" as used in Section 205.5 does not include hypertension, until such time as medical text authority to the effect that hypertension is a "disease" might be forthcoming.

You also asked whether the following interpretation of Section 205.5(d) is correct:

> "...you asked if the widow of a veteran who died of a disease which was service connected can receive the Disabled Veterans' Exemption when the veteran had not been rated as totally disabled prior to his death. Section 205.5(d) provides the exemption to the unmarried surviving spouse of a veteran that (1) qualified for the exemption during his or her lifetime, (2) would have qualified if he or she had been alive on

> January 1, 1977, or (3) died from a service-connected disease. While the first two instances require that the veteran had to qualify for the exemption (i.e., be rated as 100% totally disabled), the latter instance only requires that the veteran died of a disease which was service-connected. The requirements of Section 205.5(f) would affect only the first two instances."

Although this interpretation produces an unusual result, it is correct in that Section 205.5(d) provides that property owned by and which is the principal place of residence of the unmarried surviving spouse of a veteran is exempt from taxation (up to $40,000) provided that the veteran died from a disease which was service-connected as determined by the Veterans' Administration. Thus, while a veteran having a service-connected disease is not eligible for the exemption unless he has a service-connected disability rating of 100 percent, if the veteran dies from the disease, his surviving spouse can be eligible for the exemption.

JKM:jlh

cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. William Grommet
Mr. Bill Minor
Legal Section

STATE OF CALIFORNIA

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Controller, Sacramento

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Executive Secretary

Honorable Gregory J. Smith
San Diego County Assessor
1600 Pacific Highway
San Diego, CA 92101

Attention: Lucy Skatzes

Dear Ms. Skatzes:

This is in response to your March 7, 1984 letter in which you posed two situations concerning exemptions and asked for guidance in administering the applicable laws.

The first situation posed concerns property which was sold in January, 1984 with no exemption and the new owner moved in within the 90 days provided by Section 75.22 but after the March 1, 1984 lien date. The new owner filed an exemption claim timely and the exemption was allowed on the 1983-84 supplemental roll. You ask if the exemption should be continued for the 1984-85 regular roll since the claimant did not occupy the property on the March 1, 1984 lien date.

This question has been sent to our legal staff as part of a proposed Letter to Assessors dealing with supplemental assessments and the application of exemptions. Upon completion of their review that letter will be sent to all assessors and will include our recommended action to the above situation.

In the second situation posed in your letter you asked if the widow of a veteran who died of a disease which was service connected can receive the Disabled Veterans' Exemption when the veteran had not been rated as totally disabled prior to his death. Section 205.5(d) provides the exemption to the unmarried surviving spouse of a veteran that (1) qualified for the exemption during his or her lifetime, (2) would have qualified if he or she had been alive on January 1, 1977, or (3) died from a service-connected disease. While the first two instances require that the veteran had to qualify for the exemption (i.e., be rated as 100% totally disabled), the latter instance only require that the veteran died of a disease which was service-connected. The requirements of Section 205.5(f) would affect only the first two instances.

We trust this answers your questions. We are returning herewith the veteran's documents you sent with your letter. If you need further assistance, please let us know.

Sincerely,

William A. Minor
Staff Services Analyst
Assessment Standards Division

WAM:cl
Enclosures

ATE OF CALIFORNIA

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RECEIVED
FEB 25
C. A. LEGAL

February 22, 1985

No. 85/20

TO COUNTY ASSESSORS:

DISABLED VETERANS PROPERTY TAX EXEMPTIONS

As we advised you in Assessors' Letter 84/99, Senate Bill 1425 (Chapter 1332, stats., 1984) increases to $100,000 the amount of exemption available to veterans or unmarried surviving spouses of veterans who qualify for the exemption as totally disabled. It also eliminates the household income test for these claimants.

With Assessors' Letter 85/15 we sent you the disabled veterans exemption claim and termination forms which were revised to reflect this change in the law. The purpose of this letter is to provide guidance in administering this exemption under the new law.

While this bill increases the amount of exemption to $100,000 and removes the income test for those claimants who are rated as totally disabled, the $40,000 or $60,000 (with income limits) exemptions remain in the law for claimants eligible for the exemption due to blindness or the loss of use of two or more limbs. However, the Veterans Administration makes no such distinction and defines veterans who are blind in both eyes or have lost the use of two or more limbs as totally disabled. Thus, virtually all claimants will be eligible for the $100,000 exemption.

Please note that Senate Bill 1425 does not amend Section 276 of the Revenue and Taxation Code which provides for late filed exemptions. Therefore, Section 276 applies only to claimants filing for the $40,000 or $60,000 Exemption (blind and loss of limbs) and there are no late filing provisions for the $100,000 exemption (totally disabled). The instructions to the claim form (Time for Filing; Alternative One) have been revised to so state. Urgency legislation to amend Section 276 to provide for late filed $100,000 exemptions is being considered.

To ensure that all eligible claimants for the Disabled Veterans Exemption receive the maximum allowable amount of exemption under the new law, we ask that you implement the following procedures as soon as possible:

Totally Disabled

Identify those claimants who received the exemption last year based on their being 100 percent totally disabled. These claimants are now eligible for an exemption of up to $100,000 of assessed value. Because of the one-time filing provisions for this exemption, a new claim form is not necessary: you need only to increase the amount of the exemption to the $100,000 limit.

New claimants first filing in 1985 as 100% totally disabled must file the claim form with the assessor by April 15, 1985 or the exemption cannot be allowed for 1985. In the case of the $100,000 exemption late filing under the provisions of Section 276, Revenue and Taxation Code has not been provided for.

Blind or Loss of Use of Limbs (reclassified totally disabled)

Claimants who received the exemption last year based on blindness or loss of use of limbs and who have provided the assessor with a copy of a letter from the Veterans Administration or military service stating that prior to March 1, 1985 the veteran was rated as 100% totally disabled or 100% unemployable, are eligible for the $100,000 exemption. However, a new claim form must be filed with the assessor by April 15, 1985. These claimants should be sent a new claim form and advised through an in-house letter that they: (1) are now classified as totally disabled; (2) they must complete the new claim form and indicate they are totally disabled; (3) they no longer have to provide an income figure; and (4) there is NO LATE FILING.

A number of assessors have reported that they have assisted all of their blind and loss of use of limb veterans to obtain the totally disabled classification. The exemption supervisor should ensure that they all file timely.

Blind or Loss of Use of Limbs (NOT reclassified as totally disabled)

Claimants who received the exemption last year based on blindness or loss of use of limbs but do not provide the assessor with a copy of a letter from the Veterans Administration or military service stating that prior to March 1, 1985 the veteran was rated as 100% totally disabled or 100% unemployable, should be treated the same as before (continue the $40,000 exemption and send claims on which to report income in order to allow the $60,000 exemption if the income requirements are met).

New claimants who file late and qualify for the exemption based on blindness or loss of use of limbs, but who do not qualify as totally disabled, are still eligible for the $40,000 or $60,000 exemption and the late filing provisions of Section 276 apply.

Enclosed is a copy of Senate Bill 1425. If you have any questions regarding the new law or these procedures, please contact Bill Minor or Bill Grommet of this division. Their phone number is (916) 445-4982.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:wpc
Enclosure
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