OF CALIFORNIA

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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 Destroy, or mark as superseded, prior year's compilation.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.

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

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:bjb
Enclosure
AL-06-1264A

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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:

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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 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 interests 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 involved; 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 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 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 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 auotmatically 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 anytime 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 homeowners' 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. 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.

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 own 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.

G2. REVISED 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 sould 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. REVISED Does the homeowners' exemption apply to a mobilehome?

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 it is reasonably 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 that his unit is of a greater value than the assessor calculated. (See footnote for question M2.)

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

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

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

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/ REVISED 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 ÷ 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 should receive an exemption that exceeds its full-cash value.

1/ Where the property owner contends that the value of his property is larger, or volunteers that it 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:

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

None of the residents may receive the homeowners' exemption if the 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. REVISED May a homeowners' exemption be allowed on a dwelling located in a 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 on 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. REVISED 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?

ANSWER: YES. However, proof of separate ownership should be demanded by the assessor. Neither owner can have a 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.