STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
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(916) 445-4982

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No. 92/81

TO COUNTY ASSESSORS:

WELFARE EXEMPTION: HUD-OWNED PROPERTY USED BY EXEMPTION ORGANIZATIONS

Over the last few months we have received a number of calls from claimants and assessors' staffs concerning the eligibility for exemption of property owned by the United States Department of Housing and Urban Development (H.U.D.) and leased to organizations who generally may file and qualify for the welfare exemption, such as shelters for the homeless or day care centers.

Usually, property owned by a governmental entity and leased to a welfare-exempt organization results in a taxable possessory interest to the lessee which is enrolled and then exempted via the welfare exemption claim process. However, H.U.D. internal policy complicates the process somewhat and has in some instances resulted in exemption claimants paying taxes they normally wouldn't be required to pay.

Several years ago, H.U.D. established a policy wherein H.U.D. accepts and pays local property tax bills on property (usually residential) that it obtains through repossession or foreclosure. This policy serves two primary purposes. First of all, it protects the local tax base from impaction during economically recessive periods or actions (such as a plant closure laying off several hundred persons). Secondly, it reduces the amount of federal spending that would otherwise be necessary to support the community during such difficult times.

Until a few years ago, H.U.D. was prohibited from leasing or renting such property and the property sat vacant and unused until sold or transferred to another entity. In some cases, the property was vandalized or destroyed, creating an eyesore or safety hazard, and rendering it unmarketable. Federal law now permits H.U.D to lease such property, for a period not to exceed five years, to a nonprofit organization using the property for specified purposes.

H.U.D.'s policy of paying tax bills creates a financial hardship on otherwise exempt entities in that the lease agreement usually requires the lessee organization to reimburse H.U.D. for the property taxes paid; taxes that would not be incurred under normal circumstances.

In one case, an organization providing shelters for the homeless was faced with reimbursing H.U.D. over $25,000 in taxes. The tax bill far exceeded the organization's income and would have forced the shelter to close its doors. The problem was resolved by the county re-enrolling the property as nontaxable government property, refunding to H.U.D. the taxes paid, enrolling a possessory interest to the exempt organization, and then exempting the possessory interest under the welfare exemption provisions. While not recommending that all H.U.D. owned properties in a county be re-enrolled as nontaxable government-owned property, we do suggest that such actions be taken when the above lease situations occur.

If you have any questions regarding this subject please contact our Exemption Unit staff at (916) 445-4982.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

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