

DISABLED VETERANS' EXEMPTION

**For Training Purposes
State Board of Equalization
County-Assessed Properties Division
January 2017**

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DISABLED VETERANS' EXEMPTION

The Disabled Veterans' Exemption is available for qualified veterans to reduce their property tax liability on property that constitutes their principal place of residence. The property may be owned by the veteran or the veteran's spouse jointly or separately. The exemption is also available for the owner-occupied residence of an unmarried surviving spouse of a qualified veteran. A property is not eligible for the Disabled Veterans' Exemption—even when it is owned by a qualifying claimant—if the claimant resides elsewhere.¹

If a property has been granted the Disabled Veterans' Exemption, the property is not eligible for any other real property exemption. However, if two or more qualified disabled veterans own a property in which they reside, each is entitled to the exemption to the extent of his or her own interest.²

The Disabled Veterans' Exemption allows for two levels of exemption—a basic exemption and a low-income exemption. A claimant must meet all the same qualifications, except that persons whose household income is less than a specified income limit qualify for a larger exemption than those whose household income exceed the income limit. However, the amount of the exemption may never exceed the assessed value of the claimant's residence. For example, if a home of a veteran qualified for the low-income exemption is assessed at \$125,000, and current low-income exemption amount is \$189,571, the maximum amount of exemption that can be allowed is \$125,000—the assessed value of the property.

STATUTORY AUTHORITY

Unless specifically exempted, all property in California is subject to property taxation. California Constitution article XIII, section 4, provides:

The Legislature may exempt from property taxation in whole or in part:

(a) The home of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, or if the person has, as a result of a service-connected injury or disease, died while on active duty in military service, unless the home is receiving another real property exemption.

The Legislature exercised the above constitutional grant of power by enacting Revenue and Taxation Code section 205.5, which state, in part:³

¹ An exception to the residency requirements occurs when the veteran or unmarried surviving spouse is confined to a hospital or other care facility and the property would be the claimant's principal place of residence were it not for his or her confinement.

² Revenue and Taxation Code section 205.5(f).

³ All statutory references are to the Revenue and Taxation Code unless otherwise specified.

(a) Property that constitutes the principal place of residence of a veteran, that is owned by the veteran, the veteran's spouse, or the veteran and the veteran's spouse jointly, is exempted from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars (\$100,000), as adjusted for the relevant assessment year...The one hundred thousand dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), as adjusted for the relevant assessment year...in the case of an eligible veteran whose household incomes does not exceed the amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year....

Section 205.5, subdivisions (g) and (h), provide for the dollar amounts of the exemption and specify that the income threshold for the low-income exemption will be increased annually by an inflation factor. The subdivisions became effective on different dates, however, the annual adjustment is based on the same inflation factor.

- Beginning January 1, 2002, the \$40,000 household income limit is compounded annually by a prescribed inflation factor. For 2016, the income limit was increased to \$57,258.
- Beginning January 1, 2006, the \$100,000 basic exemption and the \$150,000 low-income exemption are compounded annually by a prescribed inflation factor. For 2016, the exemption amounts were increased to \$127,510 and \$191,266, respectively.

Although the \$100,000 basic exemption and the \$150,000 low-income exemption have increased due to the inflation factor, for the purposes of this document, the basic exemption and the low-income exemption will also be referred as the \$100,000 (or basic) exemption and \$150,000 (or low-income) exemption rather than their indexed amounts.

QUALIFICATIONS OF CLAIMANT

DEFINITION OF A VETERAN

In order to qualify for the Disabled Veterans' Exemption, a person must first be classified as a veteran by the federal government which examines his or her military service record using specific criteria. For California taxation purposes, section 205.5(b) defines a veteran as:

1. A person who meets all of the following requirements:
 - Is serving in or has served in and has been discharged under other than dishonorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; and
 - Served either in time of war or in time of peace in a campaign or expedition for which a medal has been issued by Congress, or in time of peace and because of a service-connected disability was released from active duty; and

- Is determined by the United States Department of Veterans Affairs to be eligible for federal veterans' health and medical benefits.
2. Any person who meets the definition as a veteran pursuant to the above, except that he or she has, as a result of a service-connected injury or disease, died while on active duty in military service. The United States Department of Veterans Affairs (USDVA) must determine whether an injury or disease is service connected.⁴

Persons from the National Guard or National Guard Reserve who are called into active service as part of the Armed Forces of the United States may also qualify for the Disabled Veterans' Exemption.

DEFINITION OF A DISABLED VETERAN

The Disabled Veterans' Exemption is available to a veteran who is disabled due to an injury incurred in the military service based upon any one of the following criteria:⁵

- *Blind in both eyes.* Being blind in both eyes means having a visual acuity of 5/200 or less, or concentric contraction of the visual field to 5 degrees or less.
- *Lost the use of two or more limbs.* 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.
- *Totally disabled as a result of injury or disease incurred in military service.* Being totally disabled means that the USDVA or the veteran's military service from which the veteran has been 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.

In all instances—the blindness, loss of two or more limbs, rating of 100 percent disability, or compensation at the 100 percent rate—must have been due to a service-connected injury or disease. In some instances, the USDVA may provide a 100 percent disability rating many years after discharge, having evaluated much later that the veteran's current health or physical condition is due to a service-connected injury or disease, even though at the time of discharge, those conditions did not exist. If a veteran has documentation of a qualifying disability from the USDVA, the Assessor must consider the disabled veteran qualified for the exemption. Some veterans may receive disability ratings other than at 100 percent; however, any rating less than 100 percent does not qualify the veteran to receive this property tax exemption, unless the veteran is being compensated at the 100 percent rate due to the inability to secure or follow a substantially gainful employment (individual unemployability)

⁴ Section 205.5(b)(1)(B).

⁵ Sections 205.5(a) and (e).

TEMPORARY RATING

Statutes do not specify that the 100 percent disability rating be permanent. A temporary rating will also qualify the veteran for the exemption but only during the time the 100 percent disability rating is effective. For example, if the duration of the 100 percent disability is nine months, then the exemption would be prorated to reflect only this time period.

The USDVA rating letter should provide the specific start and end dates of the qualifying period, but if the end date is not specified, it is incumbent upon the veteran to provide the end date to the Assessor when it has finally been determined. If the Assessor is not timely notified when the veteran no longer qualifies and the exemption incorrectly continues, penalties may be assessed upon discovery along with an escape assessment(s).

SURVIVING SPOUSE

The principal place of residence of an unmarried surviving spouse of a deceased disabled veteran may also qualify for the Disabled Veterans' Exemption.⁶ The benefits are extended to the unmarried surviving spouse of a disabled veteran who:

- Qualified for the exemption during his or her lifetime;
- Would have qualified if he or she had been alive on January 1, 1977; or
- Died as a result from a service-connected injury or disease as determined by the USDVA.

In the first two instances, the veteran must have qualified for the exemption (be rated as 100 percent totally disabled). In the third instance, qualification did not occur during the veteran's lifetime, but the unmarried surviving spouse is eligible for exemption upon the veteran's death if the USDVA determines that the death was service-related. There are also instances where a veteran received a disability rating of less than 100 percent, but later died as a result of an injury or disease arising from the disability. In such cases, the surviving spouse is eligible for the exemption provided the cause of death was deemed service-connected by the USDVA.

A surviving spouse must provide applicable documents of proof of marriage, such as a copy of a marriage certificate,⁷ the veteran's death certificate, and indication from the USDVA that the veteran's death was service-connected if the veteran was not rated 100 percent disabled while living.

In some cases, a surviving spouse has claimed the exemption after the death of the veteran when he/she discovered that the veteran qualified for the exemption prior to death. The Assessor may grant the exemption posthumously—subject to an eight-year statute of limitations—if the surviving spouse provides all the appropriate documents.

⁶ Section 205.5(c).

⁷ Occasionally, a marriage certificate is unavailable. The Assessor may accept other documents as proof of marriage; for instance, if the deed to the property is in the name of both spouses, as husband and wife.

Once the surviving spouse remarries, regardless of age, the exemption is no longer available. However, should the surviving spouse become single again, either due to divorce or death of the other spouse, the Disabled Veterans' Exemption may once again be granted provided the property ownership and residency requirements are met.⁸

For purposes of the Disabled Veterans' Exemption, a spouse does not include a registered domestic partner or one that is in a common-law marriage.

PROOF OF OTHER THAN DISHONORABLE DISCHARGE

Another requirement of the Disabled Veterans' Exemption is that the veteran must have been discharged under other than dishonorable conditions. The Defense Department issues a DD-214, *Report of Separation*, that identifies the veteran's condition of discharge:

- Honorable
- General (under honorable conditions)
- Other than honorable
- Bad conduct
- Dishonorable

Prior to January 1, 2017, only veterans with an honorable discharge were eligible for the Disabled Veterans' Exemption. However, as of January 1, 2017, legislation⁹ amended section 205.5(b) by lowering the threshold so that any veteran separated with a character of service that is other than dishonorable would qualify for exemption, provided the USDVA has determined the veteran is eligible for federal health and medical benefits.

There is no statutory requirement that a copy of DD-214 must be submitted to the Assessor, but it is the easiest way to verify the veteran's discharge status. A *Certification of Military Service* (NA Form 13038) or any other letter or document from the USDVA or military service identifying the discharge condition would also be acceptable. Often, when a veteran submits a "summary" letter for proof of disability (as opposed to the initial rating letter) such a letter will indicate the circumstances in which the veteran was discharged.

SUMMARY OF CLAIMANT QUALIFICATIONS

In summary, when determining a claimant's qualification for the Disabled Veterans' Exemption, a veteran must have served during one of the qualifying time periods, be discharged under conditions other than dishonorable, and one of the following factors must be met:

- The veteran is in receipt of a 100 percent disability rating due to a service-connected injury or disease;

⁸ Letter To Assessors 89/77 [www.boe.ca.gov/proptaxes/pdf/89_77.pdf].

⁹ Senate Bill 1458, Stats. 2016, ch. 871.

- The veteran is being compensated at the 100 percent rate due to unemployability/inability to secure or follow a substantial gainful employment;
- The veteran has met the disability requirements regarding the loss of eyesight and/or limbs;
- The unmarried surviving spouse has received documentation from the USDVA that the veteran died of a service-connected disease or injury. In this case, the veteran may have died while on active duty or was rated less than 100 percent disabled while living but, subsequent to death, was determined to be service-connected.
- The unmarried surviving spouse continues the exemption upon the death of the veteran who qualified for the exemption in his or her lifetime. In some cases, a qualified disabled veteran may not have filed a claim but the surviving spouse may file for the exemption after the death of the veteran spouse.

QUALIFICATIONS OF THE PROPERTY

PRINCIPAL PLACE OF RESIDENCE

In order for property to qualify for the Disabled Veterans' Exemption it must be the principal place of residence of the veteran or the unmarried surviving spouse. Unlike the Veteran's Exemption or the Homeowners' Exemption, it is not necessary for the property to be the principal of residence on the lien date for a claimant to qualify for the Disabled Veterans' Exemption.

For property tax purposes, the definition of a *principal place of residence* is the same as, or closely parallels, the legal doctrine of domicile. Under this doctrine, a person's domicile depends on two factors: ***physical presence*** and ***intention***. The combination of both factors should be used to make the final determination of a claimant's primary residence.

Physical presence is the place where:

- A person is physically present and makes his or her home.
- A person customarily returns after work and between trips or absences due to work, pleasure, or otherwise, even if the absence is extended.
- Clothes and personal belongings are kept.
- Housekeeping (preparing meals, sleeping, bathing, entertaining) is set up.
- The person files income tax returns as a resident.
- A driver's license is issued.
- The person has listed for voter registration.

For the physical presence factor, the individual facts as they relate to each other as a whole should be reviewed in each claim, as not all elements listed are necessary to satisfy this requirement.

Intention factor is the intent of the claimant to remain at the residence and not the intent to stay there only for a temporary purpose and then return to a legal domicile elsewhere. Of the two factors, intention is essential and required.

One exception to the above requirements occurs when the veteran or unmarried surviving spouse is confined to a hospital or other care facility and the property would be the claimant's principal place of residence were it not for his or her confinement. In such cases, the exemption must remain in place, provided the residence is not rented or leased to a third party.¹⁰

Thus, a person who is living in the home rent free while the veteran is permanently or temporarily confined will not disqualify the property for the exemption. In many instances, it is the spouse of the disabled veteran and/or other family members who continue to occupy the property as a principal place of residence while the veteran is confined to a care facility.

The following table describes types of property that may be considered a principal place of residence, and provides some scenarios on how a property may be occupied.

PROPERTY TYPE	PORTIONS THAT ARE EXEMPT
Single-family residence	Entire property
Single-family residence with rental guest house or living unit over garage	Only on the apportioned value of the single-family residence in which the claimant lives
Halfplex, each side owned by separate parties	Only on the side that is owned and occupied by the claimant
Apartment complex	If the complex is owned by the claimant, only on the value of the unit in the apartment complex in which claimant resides
Condominium	The unit in the condominium complex in which claimant resides
Manufactured home, owned and subject to property taxation (not Vehicle License Fee)	The manufactured home and the land if the land is owned by the claimant
Manufactured home, leased	If situated on land owned by the claimant, only the land may be exempt
Vessel (houseboat)	Entire vessel if the claimant owns and occupies the vessel as a principal place of residence

¹⁰ Section 205.5(b)(2)(A) and (c)(2).

OWNERSHIP AND TITLE REQUIREMENTS

Generally, only property owned by the disabled veteran and/or spouse is eligible for the exemption. However, property in the name of a trust is eligible if the qualifying claimant is the beneficiary of the trust. Eligible property may include any one of the following:¹¹

- Property owned by the disabled veteran with the veteran's spouse as a joint tenancy, tenancy in common, or as community property.
- Property owned by the veteran or the veteran's spouse as separate property.
- 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.
- 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.
- Property owned by a corporation that 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. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.
- Property that is held in a trust may also qualify if the claimant resides at the property and is the beneficiary of trust property. The trustee need not be the claimant or spouse since the trustee takes only bare legal title to the trust property and does not become an owner in the normal sense, whereas the claimant, as the beneficiary, has an equitable estate in the trust property. Property occupied by the claimant under a life estate deed where the claimant is the life tenant also qualifies for the exemption.

MILITARY WARRIORS SUPPORT FOUNDATION

A program within the Military Warriors Support Foundation, a 501(c)(3) non-profit organization, has awarded mortgage free homes to qualifying veterans who were injured during combat in Iraq or Afghanistan [Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF)]. The homes are for families who have severe and/or unique circumstances due to their injuries. Unmarried Gold-Star Spouses of OEF/OIF are also eligible to apply for a home. A purchase agreement is entered into under a contract for deed whereby the close of escrow is scheduled to occur three years from the date of the agreement. Title to the home remains in the name of

¹¹ Section 205.5(d).

Military Warriors Support Foundation until the three years have elapsed, at which time title may be transferred to the veteran if all requirements of the purchase contract are met. Under this situation, even though title to the property is in the name of the Military Warriors Support Foundation for the initial three years, the disabled veteran is eligible for the exemption, provided all other qualifications are met.

Another similar program, Homes on the Homefront through Operation Homefront, will also qualify since the terms of ownership are similar to those of the Military Warriors Support Foundation program. There may also be other home ownership programs for veterans; the Assessor should consult with legal counsel to ensure the program terms or contract would qualify the property for the Disabled Veterans' Exemption.¹²

PARTIAL INTEREST OWNERSHIP

Partial ownership interest in a residence is eligible for the full amount of the basic or low-income exemption, up to the value of the claimant's proportional interest in the property. The exemption amount itself is *not* reduced by the proportional interest in the property.

Only one property tax exemption is allowed on a property. Therefore, the Homeowners' Exemption is not available to a co-owner who does not qualify for the Disabled Veterans' Exemption. Section 205.5(f) provides the only exception to the provision that no other exemption may be granted on the same property. When two or more qualified veterans co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest on the same property. Likewise, two married disabled veterans may each receive the exemption on their one residence.

When prorating the exemption for the initial year in which the claimant has partial ownership, the Assessor should first determine the eligible exemption amount based on partial ownership, and then prorate that amount in accordance with the number of days the property is eligible during the initial year.

Example 1

A disabled veteran who is qualified for the basic exemption purchased a principal place of residence for \$280,000 with a non-veteran (not a spouse) where both own an equal interest in the property.

The disabled veteran is entitled to the full \$100,000 exemption on his \$140,000 interest in the property. The exemption is not reduced by 50 percent to \$50,000 because the disabled veteran only has 50 percent interest in the property.

If, however, the purchase price was \$160,000, the disabled veteran would only be allowed \$80,000 for the exemption (the lesser of \$100,000 exemption or 50 percent of \$160,000 value of the home).

¹² Letter To Assessors 2013/022 [www.boe.ca.gov/proptaxes/pdf/lt13022.pdf].

In the example above, the non-veteran co-owner would not be allowed the Homeowners' Exemption on his or her interest in the property because a property may not have more than one property tax exemption.

Example 2

Two unmarried disabled veterans own a duplex property as joint tenants and live in one side, while a hired caretaker resides rent-free on the other side. The total property is assessed at \$200,000, with the side in which the two disabled veterans live assessed at \$120,000.

Each disabled veteran qualifies for the basic exemption which may only be applied to the side in which they live (\$60,000 exemption each disabled veteran for a total of a \$120,000). Even though each did not use up the maximum \$100,000 exemption, the remaining amount cannot be applied towards the caretaker's side of the duplex regardless of the fact that the veterans own it and no rent is paid, since it is ***not occupied*** by a qualified claimant as a principal place of residence.

The following table is a summary of possible, but not inclusive, ways title may be held and the corresponding exemption:

OWNERSHIP	
TITLE IN THE NAME OF	QUALIFIES PROPERTY
<ul style="list-style-type: none"> • Disabled veteran only • Disabled veteran and spouse • Disabled veteran's spouse only • Unmarried surviving spouse of the disabled veteran 	100%
A revocable or irrevocable trust with any of above persons as trustee for their benefit	100%
An irrevocable trust with any person as trustee naming any of the above persons as beneficiary	100%
A beneficiary who was granted a revocable deed from any of the above persons, reserving a life estate to grantee	100%

OWNERSHIP INTEREST IN PROPERTY		SECTION 205.5
TITLE IN THE NAME OF	QUALIFIES PROPERTY	
50%* disabled veteran + 50% non-spouse of disabled veteran * or any other partial interest, as applicable Disabled veteran includes the disabled veteran's spouse as separate owner, disabled veteran and spouse, or unmarried surviving spouse	100% of exemption—up to the interest that the disabled veteran owns (in this case, 50%)	
50% disabled veteran 1* + 30% disabled veteran 2* + 20% other *or other partial interest, as applicable	100% of exemption for each disabled veteran—up to the interest that each disabled veteran owns (in this case, 50% and 30%)	
A corporation, when a disabled veteran, disabled veteran's spouse, or unmarried surviving spouse, is a shareholder and under specified conditions	100% when the rights of shareholding entitle the qualified person(s) to live at the residence and the exemption amount equally reduces the rent charged to that person(s)	
Registered domestic partner, child, or parent	Does not qualify	

RATING LETTERS

The exemption claim form¹³ asks the claimant for the effective date of disability rating from the USDVA and the date that the rating was received. The Assessor must also require documentation for proof of disability and verification of the dates indicated on the claim form.

A claimant may receive numerous types of letters or documents from the USDVA that provides proof of disability and may submit one or more of these to the Assessor. The documents can be issued from any one of the USDVA's regional office in the United States; it is not necessary to have originated from a California office to be eligible for the exemption. Not all of the documents are required, nor is a specific one mandatory. The Assessor should obtain enough information from the document(s) submitted to determine the eligibility of the claimant. The following are some types of documents that may be submitted:

- Initial Rating Decision letter (typically four or more pages that describe in detail the evidence used and reasons for the decision)
- Certification "Summary" letter to establish property tax exemption

¹³ BOE-261-G, *Claim for Disabled Veterans' Property Tax Exemption*.

- Letter stating the entitlement (monthly benefit) amounts and start dates
- Certification letter to determine entitlement to civil service preference
- Decision letter or certification letter stating the surviving spouse is in receipt of Dependency Indemnity Compensation and veteran spouse died from service-connected injuries

Any official letter may suffice as long as it provides the Assessor with the proof of the disabling condition(s). A copy of the initial rating decision letter, or the pertinent portions of the letter, in which the USDVA notified the veteran of the 100 percent disability rating is the preferable proof of disability as the date of the initial rating letter may be a factor in determining the timeliness of the exemption claim filing.

Alternatively, some veterans will submit a "summary" letter or a certification letter that is furnished by the USDVA for use in establishing entitlement to the property tax exemption. The summary or certification letter should verify a veteran's service, the discharge status, and the effective date of the 100 percent disability. Although the summary letter may provide proof of eligibility, if it is used to determine the timeliness of the claim, other proof may be required to document when the claimant was originally notified of the 100 percent rating. The date on most summary letters is not typically the date the original rating decision was made.

A summary letter may be sufficient documentation when the effective date of the exemption is based on the date a residence was purchased or the date residency was established at a property already owned. Such a summary letter or any other certificate verifying the 100 percent disability compensation will suffice under the following circumstances:

- The timeliness of the claim filing is ***not*** based on the notification date of the letter
- The timeliness of the claim filing ***is*** based on the date the property was purchased
- The timeliness of the claim filing ***is*** based on the date residency is established at a property already owned
- The summary letter or certification letter ***is*** dated in the same year as the effective year of disability

The phrasing used in each letter will vary and change over time; however, a statement similar to any one of the following would meet proof of disability:

ACCEPTABLE LANGUAGE FOR PROOF OF DISABILITY

Disabled Veteran

- 100 percent disabled due to service-connected causes
- Service-connected disability rated 100 percent
- Permanently and totally disabled as a result of injury and/or disease incurred in military service
- Permanently and totally disabled, service-connected, including unemployability
- Service-connected disability or disability rated (less than 100 percent), but has been awarded disability compensation at the 100 percent rate because the disability prevents the veteran from securing or following a substantially gainful occupation
- Service-connected disability rating of [less than 100 percent] but is totally disabled because of service-connected disability due to injury or disease and is in receipt of the 100 percent rate due to individual unemployability
- Rating of [less than 100 percent] due to [condition]; overall combined rating is [less than 100 percent], but has a service-connected disability evaluated at 100 percent; unable to work due to individual unemployability
- Entitlement to the 100 percent rate because unable to work due to service-connected disability

Unmarried Surviving Spouse

- Veteran's death was due to a service-connected disability
- Service connection for the cause of death is granted
- Veteran died of service-connected causes and Veterans Administration has established entitlement to Dependency and Indemnity Compensation (service-connected death benefits) for the surviving spouse

According to the USDVA, *individual unemployability*¹⁴ is a part of the disability compensation program that pays certain veterans compensation at the 100 percent rate even though the veteran's service-connected disabilities are not rated at the 100 percent level. The Assessor, however, need not interpret the disabling conditions and their percentages stated in the rating letter; the rating letter or other document should specifically indicate 100 percent disability or compensation. For further details, the Department of Veterans Affairs website¹⁵ on disability compensation can offer additional understanding of the individual unemployability determination and the definition of substantially gainful employment.¹⁶

The Assessor's staff may also call the USDVA regional office¹⁷ to verify any claimant's disability rating or effective date of the rating, on a case-by-case basis, if the rating letter

¹⁴ www.vba.va.gov/VBA/benefits/factsheets/serviceconnected/IU.asp.

¹⁵ <http://www.vba.va.gov/bln/21/>.

¹⁶ <http://www.vba.va.gov/VBA/benefits/factsheets/serviceconnected/IU.asp>.

¹⁷ 1-800-827-1000 for all regions.

provided is unclear. For the USDVA to release the information, the veteran's file number, name, and a brief explanation of the reason for the call must be provided. The USDVA is not able to look up information using the veteran's name only.

INFLATION FACTOR

Section 205.5 provides that the exemption amounts and the household income limit for the Disabled Veterans' Exemption must be compounded annually by an inflation factor. Specifically, subdivisions (g) and (h) provide that for each assessment year the inflation factor will be the annual percentage change, measured from February to February of the two previous assessment years, rounded to the nearest one-thousandth of one percent, in the California Consumer Price Index (CCPI) for all items, as determined by the California Department of Industrial Relations.

The Board annually provides the indexed household income limit and exemption amounts in a Letter To Assessors. To qualify for the low-income exemption, a claimant's prior calendar year's income is used for the current year's claim. For example, a claimant would report 2015's household income when claiming the low-income exemption for fiscal year 2016-17.

LOW-INCOME EXEMPTION

To qualify for the low-income exemption, the household income of a qualifying claimant must not exceed the annual indexed low-income amount. Household income is defined as all income received by all persons of the claimant's household, except for income from minors, students, and bona fide renters.¹⁸

Household income includes:

1. Wages, salaries, tips, and other employee compensation
2. Social security, including the amount deducted for Medi-Care premiums
3. Railroad retirement
4. Interest and dividends
5. Pensions, annuities, and disability retirement payments
6. Supplemental Security Income/State Supplemental Plan (SSI/SSP); Aid to the Blind (AB); Aid to Totally Disabled (ATD); Aid to Families with Dependent Children (AFDC); and Aid to the Potentially Self-Supporting Blind (APSD)
7. Rental income (or loss)
8. Net income (or loss) from a business
9. Income (or loss) from the sale of capital assets
10. Life insurance proceeds that exceed expenses
11. Veterans' benefits received from the Veterans Administration

¹⁸ Section 20506.

12. Gifts and inheritances in excess of \$300, except between members of the household
13. Unemployment insurance benefits
14. Workers compensation for temporary disability (not for permanent disability)
15. Amounts contributed on behalf of the claimant to a tax sheltered or deferred compensation plan (also a deduction)
16. Sick leave payments
17. Nontaxable gain from the sale of a residence
18. Income received by all other household members while they lived in the claimant's home during the last calendar year, except a minor, student, or renter

Section 17072 defines *adjusted gross income*. Adjusted gross income means, in the case of an individual, gross income minus the following deductions:

1. Forfeited interest penalty
2. Alimony paid
3. Individual retirement arrangement: Keogh (HR 10), Simplified Employee Plan (SEP) or SIMPLE plans
4. Employee business expenses
5. Moving expenses and deductions of expenses (already taken) for the production of income (or loss) reported in rental income, net income from a business, or sale of capital assets
6. Student loan interest
7. Medical savings account

Although not required, the Assessor may wish to use a "Household Income Worksheet" to aid claimants in identifying the sources of income that must be included for the purposes of qualifying for the low-income Disabled Veterans' Exemption. The Assessor may request the worksheet be attached to the claim form. Additionally, section 441(d)(1) states that persons shall make available for examination information or records regarding his or her property in which the Assessor considers relevant and essential to the proper discharge of the Assessor's duties. Thus, the Assessor may request additional information or documents to support the income reported on this worksheet (for example, first page of IRS Form 1040, veterans' benefit statement, social security statement). Since veterans' benefits are not taxable, the tax return along with the worksheet should provide the Assessor with adequate substantiation of a claimant's low-income eligibility.

EFFECTIVE DATE OF EXEMPTION

The effective date of the Disabled Veterans' Exemption commences on the *date the property or claimant qualifies*, prorated for the initial year. The initial year of the exemption is not based upon eligibility as of the lien date. The property becomes eligible for the exemption as of one of the following dates:

1. The effective date of a 100 percent rating due to disability or unemployability which qualifies the veteran's existing principal place of residence for the exemption.
2. The date a qualified claimant purchases a property that constitutes the principal place of residence, provided residency is established within 90 days of the purchase.
3. The date residency is established at a property already owned by the claimant.
4. The date a veteran died, as a result of a service-connected injury or disease, in the case where the unmarried surviving spouse is the claimant.¹⁹

The Disabled Veterans' Exemption shall be applied retroactively if applicable, subject to the provisions regarding cancellations and the limitation periods on refunds.²⁰

PRORATION OF EXEMPTION

The Disabled Veterans' Exemption begins as of the date the property or claimant becomes eligible. Therefore for the initial qualifying year, the exemption must be prorated from the date of eligibility to the end of that fiscal year.²¹ Likewise, the exemption must be terminated, on a prorated basis, as of the date the property or claimant no longer qualifies.²²

The following example demonstrates the calculations to determine the exemption amount for a fiscal year in which the property becomes available and for the year(s) that the exemption may apply. The same calculation applies when determining the amount of exemption that must be escaped for a year in which the property ceases its eligibility.

Example 3

Date of eligibility/ineligibility is February 22, 2016
Basic exemption amount for 2015-16 is \$126,380

Basic Exemption

2015-16: $\$126,380 \div 366 \text{ days (leap year)} = \345.30 per day (used for proration of days eligible or ineligible)

February 22 to June 30, 2016 = 130 days* (eligible or ineligible for exemption)

¹⁹ Section 279(a).

²⁰ Refunds are subject to the eight-year limitation periods as provided in section 5097 et seq. Cancellations are subject to the provisions of section 4985 et seq.

²¹ Sections 276.1(b), 276.2(b), and 279.

²² Section 279.

*Includes first and last days²³

Prorated exemption or escaped amount for 2015-16 (may calculate two ways) =

\$345.30/day x 130 days = \$44,889

130 days / 366 days in 2015/16 = .355191 x \$126,380 = \$44,889

If a property's assessed value is less than the basic exemption amount, the assessed value will be used in the proration calculation rather than the basic exemption amount because the exemption amount can never be greater than the assessed value of the property.

EIGHT-YEAR STATUTE OF LIMITATIONS

As of January 1, 2015, claims for the Disabled Veterans' Exemption for prior years are subject to an eight-year statute of limitations on refunds for taxes paid.²⁴ Provisions in the law at that time, however, only allowed an Assessor, to correct the roll within four years after making an assessment.²⁵ If the claimant qualified for the exemption beyond this four-year period, the claimant was directed to file a claim for a refund with the board of supervisors (or other agency designated refund duties) for any additional prior years in order to receive a refund of taxes up to eight years from the date the taxes were paid. To be consistent with the refund provision, and for administrative ease, legislation added section 4831.1,²⁶ effective September 30, 2016, to allow an Assessor to correct the roll within eight years after the making of the assessment for corrections related to the Disabled Veterans' Exemption.

For those claimants already receiving the exemption but who were not granted prior years' exemption due to the previous four-year statute of limitations on refunds, an Assessor may now grant the exemption for additional qualifying years. For example, if a veteran who qualified for the exemption for six prior years but was allowed the exemption for only four years because the exemption claim was first filed prior to January 1, 2015, an Assessor may correct the roll for two additional years if the correction is still within eight years of making the assessment. Furthermore, for any prior years' exemptions not previously granted due to the four-year limitation on roll corrections or refund periods, late filing provisions do not apply when granting these types of retroactive exemptions.

Example 4

A veteran was awarded benefits in 2009 based on an 80 percent disability rating. He contested the rating, and in October 2014 the USDVA revised the rating to 100 percent, effective July 1, 2009. The veteran then timely applied for the exemption in December 2014 on a home he had owned and occupied for 20 years. At that time, the Assessor made roll corrections for 2014, 2013, 2012, and 2011, but was unable to allow any exemption for 2010 and 2009 due to the four-year statute of limitations. However, as of September 30, 2016, the

²³ Website available to calculate number of days between dates: <http://www.timeanddate.com/date/duration.html> (ensure the box to include the end date is checked).

²⁴ Section 5097(a)(4).

²⁵ Section 4831.

²⁶ Senate Bill 1458, Stats. 2016, ch. 871.

Assessor may roll correct up to eight years and the claimant should request the exemption for the additional two prior years since correcting the 2009 and 2010 rolls during fiscal year 2016-17 are within the eight years of making those assessments.

SUPPLEMENTAL ASSESSMENTS

The Disabled Veterans' Exemption may be applied toward any positive supplemental assessments,²⁷ either on a new purchase or new construction. A claim that is filed prior to the issuance of a supplemental assessment may also serve as a claim from the supplemental assessment. The statutes do not stipulate whether the exemption must be applied initially to the regular roll or to the supplemental assessment. However, to the extent that a supplemental assessment will be issued, the exemption may first be applied to the supplemental assessment.

For a new purchase, if the claimant has not already filed an exemption claim prior to receiving a supplemental assessment, a timely claim must be filed before the 30th day following the supplemental assessment notice. A reduced exemption due to late filing applies if the claim is filed after 30 days.

An additional claim is not required when the supplemental assessment is for new construction to an existing property if the claimant already has a Disabled Veterans' Exemption on the current roll. If the property has not already exhausted the eligible amount of exemption, the Assessor must apply any excess exemption amount from the current assessment to the supplemental assessment. If the new construction value exceeds the excess exemption, the claimant should be billed for the net supplemental taxes owed.

If the property is receiving another exemption on either the current roll or the roll being prepared (for example, the Homeowners' Exemption) and a claim for the Disabled Veterans' Exemption is subsequently filed, then the difference in the amount between the two exemptions may be applied to the supplemental assessment.

Example 5

- ☐ A property is valued at \$250,000 on the current roll
- ☐ The property has no existing property tax exemption
- ☐ A change in ownership occurs on September 1, 2015, and the property is reassessed at \$300,000
- ☐ A supplemental assessment of \$50,000 results
- ☐ The purchaser did not own a prior principal place of residence
- ☐ The purchaser is a first-time claimant for the Disabled Veterans' Exemption

²⁷ Section 75.21.

- The purchaser qualifies for the basic exemption, which prorated for 304 days is \$104,971 for the 2015-16 fiscal year (basic exemption amount for 2015-16 is $\$126,380 \div 366$ days (leap year) = \$345.30 per day)

The exemption should be applied to the supplemental assessment which results in a negation of the supplemental assessment. Although there is \$54,971 exemption remaining (\$104,971 - \$50,000), the exemption may only be allowed to the extent of the supplemental assessment and cannot result in a negative supplemental assessment that would generate a refund. The excess should be applied toward the assessment on the regular roll, via a roll correction, for the portion of the fiscal year in which the claimant owns the property.

Example 6

- ☐ A property is valued at \$250,000 and is receiving a \$7,000 Homeowners' Exemption
- ☐ A change in ownership occurs on July 1, 2015, and the property is reassessed at \$400,000
- ☐ A supplemental assessment of \$150,000 results
- ☐ The purchaser did not own a prior principal place of residence
- ☐ The purchaser is a first-time claimant for the Disabled Veterans' Exemption
- ☐ The purchaser qualifies for the basic exemption

The basic exemption may be applied to the supplemental assessment. However, because the property was already receiving the \$7,000 Homeowners' Exemption (from the prior owner) on the current roll, only \$119,380 of the exemption (basic exemption amount for 2015-16 is $\$126,380 - \$7,000$) may be applied to the supplemental assessment, resulting in a net supplemental assessment of \$30,620. No roll correction to the regular roll is required because the entire exemption was applied to the supplemental assessment.

$\$126,380 - \$7,000 = \$119,380$	Net exemption amount available
$\$150,000 - \$119,380 = \$30,620$	Net supplemental assessment

SUMMARY OF SUPPLEMENTAL ASSESSMENTS

Positive supplemental assessment: Pursuant to section 75.21, exemptions must be applied to the amount of the supplemental assessment. If two supplemental assessments are issued, one for the current roll in which the change in ownership took place and one for the ensuing fiscal year, the exemption may be applied to both fiscal years. The exemption amount available is based on a proration of the number of days the claimant is eligible for each year, up to the amount of the supplemental. If the (prorated) exemption exceeds the amount of the supplemental assessment, the remaining amount should be applied to the regular roll.

Negative supplemental assessment: Exemptions may not be applied to a negative supplemental to generate a larger refund.²⁸ The exemption must be applied to the regular roll up to the value on the roll; any remaining exemption not used is lost.

Prorated supplemental assessment: The exemption can be applied to any prorated supplemental which arises when multiple sales of the same property occur over a short period of time, when a supplemental on the first change of ownership is not issued prior to the second change of ownership.

Eligibility within 90 days: Section 75.22 states that a property must be eligible for exemption from the supplemental assessment if the person claiming such exemption meets the qualifications for the exemption within 90 days of the date of the change in ownership or the completion of construction on a new home. A claimant that does not occupy the home within the 90 days may receive the prorated exemption only on the regular roll, effective as of the date of occupancy rather than the date of purchase or completion of construction on the new home.

New construction on existing property: A claim need not be filed on a supplemental assessment for new construction (addition to the property) when the claimant currently has an existing Disabled Veterans' Exemption on the property. The Assessor should apply any remaining exemption that was not used to the new supplemental assessment.

Existing exemption: If an existing exemption exists on the property, such as the Homeowners' Exemption, the difference between the Disabled Veterans' Exemption and the Homeowners' Exemption should be applied to the supplemental assessment.²⁹

MISFORTUNE OR CALAMITY AND GOVERNOR-DECLARED DISASTERS

Property that has been damaged by a misfortune or calamity or a home totally destroyed in a governor-declared disaster may continue to receive the exemption while the home is being reconstructed provided that the claimant:

- ☐ Continues to own the property;
- ☐ Intends to rebuild a home on the property; and
- ☐ Intends to occupy the home as his or her principal place of residence.

However, for a dwelling that is totally destroyed in a disaster for which the Governor **has not** proclaimed a state of emergency, the Disabled Veterans' Exemption is not available until the structure has been replaced and is occupied as a dwelling.

²⁸ Annotated letter 790.0077 [www.boe.ca.gov/proptaxes/pdf/790_0077.pdf].

²⁹ Section 75.21.

HOMEOWNERS' EXEMPTION FOR DISQUALIFIED DISABLED VETERANS' CLAIM

There are occasions where a claimant will file for the Disabled Veterans' Exemption on his or her principal place of residence but the claimant is found ineligible for the exemption. Section 255.2 allows the claimant to alternatively file for the Homeowners' Exemption, if so qualified, without regard to late-filing penalties under either of the following circumstances:

- ☐ The claimant is filing the Disabled Veterans' Exemption for the first time; or
- ☐ The claimant received the Disabled Veterans' Exemption on a principal place of residence in the immediately preceding year but was disallowed for the current year.

The Assessor must notify such claimants of their ineligibility for the Disabled Veterans' Exemption and inform them that they have 15 days from the date of notice to file for the Homeowners' Exemption. If the Assessor fails to provide the notice to the claimant, the filing period is extended to the next lien date. A claimant who fails to file within the time frame provided is subject to the late-filing provisions of the Homeowners' Exemption. Section 255.2 applies only to a claim for the current year. It is not retroactive and does not apply for prior years, even in the case where the exemption was allowed but found ineligible as the result of an audit.

CHANGE IN ELIGIBILITY/TERMINATION OF EXEMPTION

Once a Disabled Veterans' Exemption has been granted, it will remain in effect unless any of the following occurs:³⁰

1. Title to the property changes.³¹
2. The owner does not occupy the dwelling as his or her principal place of residence.
 - (A) If the claimant is confined to a hospital or other care facility but principally resided at a dwelling immediately prior to that confinement, the claimant will be deemed to occupy that same dwelling as his or her principal place of residence on the lien date, provided that the dwelling has not been rented or leased.³²
 - (B) If a person receiving the Disabled Veterans' Exemption is not occupying the dwelling because the dwelling was damaged in a misfortune or calamity, the person will be deemed to occupy that same dwelling as his or her principal place of residence, provided the person's absence from the dwelling is temporary and the person intends to return to the dwelling when possible to do so. Except as provided

³⁰ Section 279(b).

³¹ Changing title to a trust where the Disabled Veterans' Exemption claimant remains the beneficiary to the property does not terminate the exemption.

³² Section 205.5.

in paragraph (C) below, when a dwelling has been totally destroyed, the exemption is not applicable until the structure has been replaced and is occupied as a dwelling.

(C) A dwelling that was totally destroyed in a disaster for which the Governor proclaimed a state of emergency, that qualified for the exemption and has not changed ownership since the disaster, will be deemed occupied by the person receiving a Disabled Veterans' Exemption provided the person intends to reconstruct a dwelling on the property and occupy the dwelling as his or her principal place of residence when it is possible to do so.

(D) If the claimant purchases another principal place of residence but does not sell or transfer the former residence, the exemption on the former residence must be terminated (no longer claimant's principal place of residence) and then applied to the new residence as of the date residency is established.

3. The property is altered so that it is no longer a dwelling.
4. The veteran is no longer disabled as defined in section 205.5.
5. The unmarried surviving spouse claimant remarries.³³

The Assessor must terminate the exemption as of the date of the event upon notification of any of the above changes. Notification may be accomplished by the Assessor's change in ownership unit or the claimant filing form BOE-261-GNT, *Disabled Veterans' Exemption Change of Eligibility or Termination Notice*, which the Assessor mails to all claimants who received the Disabled Veterans' Exemption during the prior year. Return of the form is only required when there has been a change in eligibility.

CHANGE OF ELIGIBILITY REPORT FORM

Board-prescribed form BOE-261-GNT, *Disabled Veterans' Exemption Change of Eligibility or Termination Notice*, must be used to notify the Assessor when the claimant no longer qualifies for the exemption. Prior to the lien date, the Assessor must annually mail a BOE-261-GNT form to all taxpayers who received the Disabled Veterans' Exemption in the preceding year.³⁴ It is the responsibility of the claimant to notify the Assessor when the property or the claimant is no longer eligible for the exemption. If a property receiving the exemption in the prior year did not qualify as of the lien date, the claimant should indicate the reason for the disqualifying condition, date, sign, and return the form by June 30 to avoid penalties.

³³ If the disabled veteran's spouse should become single once again after being remarried, the (surviving) spouse may once again be eligible for the exemption [LTA 89/77 www.boe.ca.gov/proptaxes/pdf/89_77.pdf].

³⁴ Section 278.

In the event that a property receiving a Disabled Veterans' Exemption no longer qualifies for the exemption, the exemption must cease on the date of disqualification. Termination of the exemption may result in an escape assessment of the property.³⁵

The Assessor must monitor and verify the continued eligibility of each person receiving a Disabled Veterans' Exemption, and must provide for a periodic audit of Disabled Veterans' Exemption claims.³⁶

ESCAPE ASSESSMENTS

Upon discovery that a property did not qualify as of January 1 or that the exemption has been incorrectly granted, the Assessor must cancel the exemption and make an escape assessment as authorized by section 531.1, with interest as provided in section 506.³⁷ An exemption that was incorrectly granted because of erroneous or incorrect information submitted by the claimant who knew that such information was erroneous or incomplete, or because the claimant failed to notify the Assessor in a timely manner that the property or claimant was no longer eligible for the exemption, **requires** that the penalty provided in section 504³⁸ be added to the assessment.³⁹ However, under the following conditions, a penalty under section 504 or an interest under section 506 must be forgiven if:

- ☐ The exemption was terminated because the property has been transferred or conveyed to a bona fide purchaser for value during the period commencing with the lien date and ending July 1 of the fiscal year for which the exemption was incorrectly allowed and the purchaser is not the claimant; or
- ☐ The exemption was allowed as the result of an Assessor's error.⁴⁰

Although the exemption is terminated when the property no longer qualifies, any applicable interest and penalty would commence beginning July 1—after the June 30 notification deadline.

If the property has been transferred or conveyed to a bona fide purchaser for value (and the claimant is not a purchaser) after July 1 of the fiscal year for which the exemption was incorrectly allowed, the escape assessment must be levied in accordance with section 531.2.⁴¹

SOCIAL SECURITY NUMBER

Section 277 lists the minimum information required of a person claiming the Disabled Veterans' Exemption. Effective January 1, 2007, the social security numbers of both the claimant and, if applicable, the claimant's spouse must be provided to claim the exemption. If a social security

³⁵ Section 531.1.

³⁶ Section 279(c).

³⁷ Section 279.5; section 506 provides for an interest rate of three-fourths of 1 percent per month.

³⁸ Section 504 provides for a penalty amount of 25 percent of the additional assessed value.

³⁹ Section 279.5.

⁴⁰ Section 279.5.

⁴¹ Section 279.5.

number does not exist, another personal identifying number must be provided to the Assessor. To protect the confidential information, completed claim forms with social security numbers are not public documents and are marked that they are not subject to public inspection.

Similar to the Homeowners' Exemption, social security numbers of Disabled Veterans' Exemption claimants may be used to locate possible duplicate claims. If the Assessor opts to submit their data to the Board, the Board acts as a clearinghouse for the exemption by crosschecking data submitted from other counties to prevent granting of multiple exemptions. Although the Assessor is not statutorily required to submit the information to the Board, it would be to a county's best interest to participate in the process to eliminate improper claims since the state does not provide subvention for this exemption.

The Assessor has the authority to request any information currently required by law even though the information may not have been required at the time the original exemption was granted. If, after a number of requests to a claimant to provide social security number(s) produces no response, the Assessor has the discretion to discontinue the exemption.

APPEALS PROCESS

A county board of equalization or assessment appeals board does not have the jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.⁴² Therefore, a taxpayer's recourse in challenging the denial of the Disabled Veterans' Exemption is to file a claim with the BOS for a refund of taxes paid, and if the refund claim is denied, then file a suit in superior court.

FILING REQUIREMENTS

FORM

Board-prescribed form BOE-261-G, *Claim for Disabled Veterans' Property Tax Exemption*, must be used when claiming the exemption. The same form is used for annual filing required by claimants qualifying for the low-income exemption. All information requested on the form must be provided, including the following information:⁴³

- ☐ Name of the person claiming the exemption;
 - Claimant's social security number and, if applicable, the spouse's social security number—or other personal identifying number if a social security number is not available;
- ☐ Address of the property;
- ☐ Statement to the effect that the claimant owned and occupied the property as a principal place of residence on the lien date, or that he or she intends to own and occupy the property as a principal place of residence on the next succeeding lien date; and

⁴² Property Tax Rule 302(b), *The Board's Function and Jurisdiction*.

⁴³ Section 277.

- ☐ Proof of disability.

A claimant who is the unmarried surviving spouse of a qualified deceased veteran must provide additional documentation:

- ☐ Document from the USDVA indicating that the veteran died of a service-connected injury or disease;
- ☐ Dates of the veteran's service; and
- ☐ Copy of the marriage certificate. *Note:* If a copy of the marriage certificate is not available, it is at the discretion of the Assessor to accept other means to satisfy that the claimant is the surviving spouse of the veteran (for example, title to the property was held in the names of the veteran and surviving spouse as husband and wife, or a letter from the USDVA indicating benefit payments to the surviving spouse).

FILING PERIODS

Filing requirements for the Disabled Veterans' Exemption vary depending upon circumstances in which the claim is being filed and whether the basic or low-income exemption is being claimed. A timely filing for an initial claim differs from the annual filing that is required for the low-income exemption. Additionally, because some veterans may be unaware of the exemption until years after qualifying for the exemption, or because the USDVA disability rating is delayed or untimely, claims may be filed for retroactive consideration, subject to the eight-year statute of limitations.

Basic exemption - one time filing: Once the initial claim is filed, the basic exemption remains in place until the property or the claimant no longer qualifies; annual filing is not required. The filing period for the initial claim is discussed below.

Low-income exemption - annual filing: After the initial claim has been filed, annual filing between January 1 and on or before February 15 is required to certify that the claimant's household income continues to meet the income limit restriction. Income from the prior calendar year determines eligibility for the year in which the exemption is sought. The filing period for an initial low-income claim is the same as the basic exemption. Late-filing provisions of an annual claim are discussed below.

February 15: This date is a relevant deadline date for a timely filing under the following circumstances:

1. Annual low-income filing;
2. Change from an existing basic exemption to a low-income exemption when the claimant's prior year's income now meets the low-income household limit; and
3. To determine the reduced exemption available for any fiscal years subsequent to the initial qualifying year for a late filing on a retroactive initial claim.

In no other circumstance does a February 15 filing date apply; initial filing periods are subject to other filing periods. Claims that are timely filed will be granted 100 percent of the eligible exemption while claims filed outside the timely period may be granted a reduced exemption due to late filing.

INITIAL CLAIM – TIMELY FILING

Questions on the exemption claim form asks the claimant for the effective date of disability rating from the USDVA and the date the claimant received the disability rating. It also asks the date the claimant purchased and established residency at the property. These dates should be verified with the appropriate documents submitted for proof of disability and with the Assessor's property records.

Generally, the initial filing for the Disabled Veterans' Exemption is precipitated by one of the following *events* giving rise to eligibility of the exemption:

- A disabled veteran receives a rating letter from the USDVA indicating a 100 percent disability rating or that compensation is at the 100 percent level, thereby qualifying an existing principal place of residence for exemption.
- A service person dies as a result of a service-connected injury or disease, thereby qualifying the surviving spouse's principal place of residence for exemption.
- A property is purchased by a qualifying claimant who moves into the property within 90 days of purchase.
- A qualifying claimant establishes residency at a property already owned but did not previously reside.

A timely filing for an initial claim is between the date of the eligibility event and on or before the following lien date, or 90 days after the date of eligibility, whichever is later.⁴⁴

Example 7

1. A veteran receives his USDVA rating letter dated September 5, 2015, stating an overall 100 percent disability effective as of January 10, 2015. A timely initial filing is between September 5, 2015 and January 1, 2016 to receive 100 percent of the eligible exemption on the home he currently owns and resides. The exemption is prorated from the effective date of disability, January 10, 2015.
2. A veteran has been rated 70 percent disabled since 2010 due to service-connected injuries. He subsequently dies in 2015 and the widow receives a letter from the USDVA dated July 26, 2015 with a determination that the veteran's death was a result of the service-connected injuries. A timely initial filing is between the date of the letter

⁴⁴ Section 276.2.

July 26, 2015 and January 1, 2016 to receive the exemption on the home she owns and resides. Exemption is prorated from the date of death.

3. A veteran dies while on active duty on November 8, 2015. The surviving spouse receives a confirmation letter from the USDVA that the death was a result of service-connected injuries. A timely initial filing is between the date of the letter and the *later* of 90 days or on or before the next following lien date (in this case, 90 days or February 8, 2016) to receive exemption on the home she owns and resides. The exemption is prorated from the date of death
4. A veteran closed escrow on a home on December 14, 2015 and moved in on February 2, 2016 (within 90 days of purchase). Since the following lien date is less than 90 days from the date of purchase, the veteran is allotted 90 days after purchase to file a claim in order to receive 100 percent of the eligible exemption. Since the 90th day falls on Sunday, March 13, 2016, the claim is due the next business day, Monday, March 14, 2016. The exemption is prorated from the date of purchase.
5. A veteran has owned a rental property for a number of years but decides to move into it on June 1, 2015 and make it his principal place of residence. A timely initial filing is between June 1, 2015 and January 1, 2016. Exemption is prorated from date residency is established.

INITIAL CLAIM – LATE FILING

An initial claim that is submitted after the timely filing period must be granted 85 percent of the eligible exemption for the first year qualified; 90 percent is not applicable on late claims for the initial year. A qualified claimant seeking exemption for multiple prior years on the initial claim (for example, filing for the first time in 2015 for a property purchased in 2012) may be granted 85, 90, or 100 percent on the years subsequent to the initial year, depending upon when the claim is filed.

Example 8

A disabled veteran has been compensated at the 100 percent rate since 2009. He received his original rating letter from the USDVA in 2009, but he was remiss in filing a claim for exemption until October 8, 2016. Refunds on the Disabled Veterans' Exemption are subject to an eight-year statute of limitation, and, since the claim was filed in October of 2016, the Assessor may roll correct and grant the exemption beginning for the 2009-10 fiscal year.⁴⁵ The Assessor may grant the exemption as follows:

⁴⁵ Provisions regarding cancellations are set forth commencing with section 4985, and refund provisions are set forth commencing with section 5096. Section 5097(a)(4), effective January 1, 2015, provides that refunds are available for claims filed within eight years after making the tax payment sought to be refunded. Section 4831.1, effective September 30, 2016, allows an Assessor to correct the roll within eight years after the making of the assessment for corrections related to the Disabled Veterans' Exemption.

2009-10	85%
2010-11	85%
2011-12	85%
2012-13	85%
2013-14	85%
2014-15	85%
2015-16	85%
2016-17	90% (filed after February 15, 2016 but before December 10, 2016)

LOW INCOME –TIMELY FILING

Annual filing for the low-income exemption is required to certify that the claimant's prior year's household income does not exceed the current year's indexed maximum income limit. In order to receive 100 percent of the exemption for upcoming fiscal year, a claim must be filed between January 1 and February 15 each year.

A claimant who has been receiving the basic exemption but finds that he or she now meets the low-income exemption requirement must also submit a claim form between January 1 and February 15 to receive 100 percent of the eligible exemption. However, no action from the claimant is required when a change from the low-income to basic exemption is necessary. When a low-income claimant does not file an annual claim form, only the basic exemption can be granted for that year.

LOW INCOME –LATE FILING

In instances where a late filing of an annual claim for the low-income exemption occurs or when there is a change from basic to low income, a partial exemption is applied as follows:

- ☐ Ninety percent of any tax, including any interest or penalty, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim must be cancelled or refunded, provided that an appropriate claim for exemption is filed *after* 5 p.m. on February 15 of the calendar year in which the fiscal year begins, but *on or before* the following December 10.⁴⁶
- ☐ If an appropriate claim for exemption is filed *after* December 10, 85 percent of that portion of any tax, including any interest or penalty, that was levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, must be cancelled or refunded. Late filings are subject to the limitation periods on refunds.⁴⁷

The entire eligible exemption, however, is not reduced by the 90 percent or 85 percent. Since the basic exemption only has a one-time filing requirement, a low-income claimant filing an annual claim after the February 15 filing deadline must be granted 100 percent of the basic exemption amount, plus 90 percent or 85 percent of the *difference* between the eligible low-income and basic exemption amounts.

⁴⁶ Section 276(a)(1).

⁴⁷ Section 276(a)(2).

Example 9

- ☐ A property is valued at \$300,000 and has been receiving the low-income Disabled Veterans' Exemption for many years.
- ☐ The claimant realized he missed filing the annual claim by February 17* upon receiving his tax bill in October 2015, which indicated that only the basic exemption was applied. The claimant filed the annual claim on November 2, 2015. [* February 15, 2015 occurred on Sunday, and February 16, 2015 was a holiday.]
- ☐ The basic exemption amount for 2015 is \$126,380; the low-income exemption amount is \$189,571.

The eligible exemption is determined as follows:

$$\begin{aligned} & \text{Basic exemption} + (\text{eligible low-income exemption amount} - \text{basic exemption}) \times .90 \\ &= \$126,380 + (\$189,571 - \$126,380) \times .90 \\ &= \$183,252 \text{ eligible exemption for 2015} \end{aligned}$$

SUPPLEMENTAL ASSESSMENTS – TIMELY FILING

When a property has been purchased or newly constructed, to receive 100 percent of the eligible exemption on any supplemental assessment issued, the claim must be filed on or before the 30th day following the date of notice of the supplemental assessment.⁴⁸ Thereafter, the amount of exemption is reduced, depending upon the filing date of the claim. The following table provides the exemption amounts for supplemental assessment filings:

EXEMPTION AVAILABLE	SUPPLEMENTAL ASSESSMENT CLAIM FILING DATES
100 percent	On or before the 30th day following the date of notice of the supplemental assessment.
90 percent	After 30 days following notice of supplemental assessment but on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent. ⁴⁹
85 percent	Any time after the 90 percent late filing time frame.

If a supplemental assessment has not been issued prior to the next lien date following the supplemental event, a timely claim must be filed in accordance with the initial filing periods to receive the full amount of the eligible exemption for the ensuing year.

⁴⁸ Section 75.21(c).

⁴⁹ Section 75.21(c)(4).

DELAYED DISABILITY RATING – TIMELY FILING

In practice, it can take some time for the USDVA to make a determination of disability which may result in the veteran being notified of the disability rating decision one or more years after the effective date of disability. For purposes of the exemption, this is known as a *delayed disability rating*.

The significance of determining a delayed rating relates to the claimant being able to receive 100 percent of the eligible exemption for all prior qualifying years, subject to the provisions regarding cancellations and the eight-year limitation on refunds. If the claim is filed between the date the veteran was first notified of the 100 percent disability rating and on or before the next lien date or within 90 days after the date on the rating letter, whichever is later,⁵⁰ 100 percent of the eligible amount of exemption for prior years is available. A claim that is filed untimely is eligible for 85 percent of the exemption for prior years.

Example 10

- The veteran has resided in a home since 2004 as his principal place of residence.
- The veteran receives an initial rating letter from the USDVA dated March 5, 2015 indicating a 100 percent disability rating, retroactive to August 24, 2012.
- The veteran timely files claims for the low-income exemption on December 15, 2015.

An exemption claim for each year should be submitted—with the prior year's income provided—when a claimant is filing for the low-income exemption. Alternatively, one claim may be filed with an attached signed affidavit indicating the veteran's household income for each of the prior years in which he qualifies for the exemption. Since the claim was filed on or before the next lien date, January 1, 2016, the Assessor should grant 100 percent of the eligible exemption of all prior and current years: 2012 (prorated beginning August 24, 2012), 2013, 2014, and 2015.

⁵⁰ Section 276.1. Effective January 1, 2012, section 276.1(a)(2) was amended to allow 90 days instead of 30 days.