STATE OF CALIFORNIA

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TO COUNTY ASSESSORS AND INTERESTED PARTIES: No. 2007/036

DISABLED VETERANS' EXEMPTION

Board staff has initiated a project to develop Assessors' Handbook Section 260, *General Exemptions* (AH 260). This new handbook section will discuss property tax exemptions, except those exemptions covered in Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions.*

One of the chapters in AH 260 discusses the statutes and procedures applicable to the disabled veterans' exemption. Since this is a complex exemption and one that staff routinely receives many questions about from county assessors' staffs, we have elected to hold a separate interested parties process for this chapter. A copy of the draft language is enclosed.

Board staff will seek input from interested parties and direction from the Board on any outstanding issues prior to releasing the complete first draft of AH 260. Interested parties may submit proposed revisions or additions to the language presented in the enclosed draft. Revisions/suggestions in the form of alternative text should be submitted to Ms. Margie Wing at margie.wing@boe.ca.gov by September 28, 2007.

It is anticipated that this project will proceed as follows:

- October 2007 – Staff will hold an interested parties meeting to discuss the draft language.
- November 14, 2007 – The Board's Property Tax Committee will hear discussions regarding any outstanding issues.

All documents pertaining to this project will be posted on the Board's website at www.boe.ca.gov/proptaxes/otherprojects07.htm. If you have questions regarding this project, you may contact Ms. Wing at 916-324-0028.

Sincerely,

/s/Dean Kinnee for

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:sk
Enclosure

CHAPTER 3: 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 on the owner-occupied residence of an unmarried surviving spouse of a qualified veteran.

The disabled veterans' exemption provides for a more advantageous exemption than the veterans' exemption as discussed in Chapter 2. Along with the qualification factors, there are two significant differences between the veterans' and the disabled veterans' exemptions:

1. There are no limitations on the value of property ownership for the disabled veterans' exemption; and
2. A pensioned parent is not a qualified claimant of the disabled veterans' exemption.

No other real property tax exemption may be granted to any other person with respect to the same residence for which a disabled veterans' exemption has been granted. However, if two or more qualified veterans own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.[1]

STATUTORY AUTHORITY

Unless specifically exempted, all property in California is subject to property taxation. The 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 asserted the above right by enacting Revenue and Taxation Code section 205.5. Section 205.5 provides, in part:

> (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)

[1] Section 205.5(f).

> 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 the income threshold for the low-income exemption to be increased annually due to inflation. The statutes 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 shall be compounded annually by a prescribed inflation factor. For the year 2007, the income limit has been increased to $48,325.

- Beginning January 1, 2006, the $100,000 basic exemption and the $150,000 low-income exemption shall be compounded annually by a prescribed inflation factor. For the year 2007, the exemption amounts have been increased to $107,613 and $161,420, 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 handbook section, 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

DEFINITION OF A VETERAN

In order to qualify for the disabled veterans' exemption, a person must first be considered a veteran by the government by meeting certain criteria regarding his or her service as a veteran. A *veteran* means either of the following:

1. A person serving in, or has served in and has been discharged under honorable conditions from service, in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine (Revenue Cutter) Service; and served in any of the following:[2]
    - In time of war
    - In time of peace in a campaign or expedition for which a medal has been issued to the veteran by Congress
    - In time of peace and because of a service-connected disability was released from active duty
2. Any person who would qualify as a veteran pursuant to the above definition, except that he or she has, as a result of a service-connected injury or disease, died while on active

[2] Article XIII, section 3, subdivisions (o), (p), and (q), California Constitution.

duty in military service. The United States Department of Veterans Affairs shall determine whether an injury or disease is service connected.[3]

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.

WARS SERVED

As specified in section 205, there are 26 wars and 4 campaigns that qualify for the veterans' exemptions under the California Constitution.[4] The majority of the wars and campaigns listed in the statutes are over 100 years ago, dating back to the Revolutionary War. For purposes of this handbook section, 21 of the wars (that ended prior to 1892) are not listed below since it is unlikely any qualified veterans, or their unmarried surviving spouses, who served in those wars still living. The following wars or campaigns are those which may still have living qualified claimants:

- War with Germany-Austria (commonly referred to as World War I): April 6, 1917 – November 11, 1918
- World War II: December 7, 1941 – January 1, 1947
- First Nicaraguan campaign: July 29, 1912 - November 14, 1912
- Second Nicaraguan campaign: August 27, 1926 - January 2, 1933.
- Yangtze River campaign in China: September 3, 1926 - October 21, 1927 or March 1, 1930 - December 31, 1932
- Campaign against the North Koreans and Chinese Communists in Korea: June 27, 1950 – January 31, 1955
- Campaign against the Viet Cong and North Vietnamese Communists in South Vietnam: August 5, 1964 – May 8, 1975
- All other campaigns for service in which a medal has been issued to the veteran by the Congress of the United States

DEFINITION OF A DISABLED VETERAN

The disabled veterans' exemption is available to a veteran, as described above, who is disabled according to 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.

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[3] Section 205.5(b).
[4] Subdivisions (o), (p), and (q) of Section 3 of Article XIII.
[5] Sections 205.5(c)(1) and 205.5(e).

- ***Totally disabled as a result of injury or disease incurred in military service***. Being totally disabled means that the United States Department of Veterans Affairs (USDVA) or the veteran's military service from which 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. If a veteran has received a disability rating of 100 percent from the USDVA, the county assessor should consider the veteran qualified for the exemption without requiring further documentation.

  Although the USDVA provides disability ratings other than at 100 percent, any rating less than 100 percent does not qualify the veteran to receive this property tax exemption. However, if a veteran had received a disability rating less than 100 percent due to an injury or disease, but later died as a result of that injury or disease, and the USDVA has determined that the cause of death was service-connected, the surviving spouse would be eligible for the exemption.

SURVIVING SPOUSE

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

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

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.

Once the surviving spouse remarries, regardless of age, the exemption is no longer available. However, should the surviving spouse later divorce or the new spouse die, the disabled veterans' exemption may once again be granted provided the property ownership and residency requirements are met.

PROPERTY

In order for property to qualify for the disabled veterans' exemption, it must be owned and used as the principal place of residence of the veteran or the unmarried surviving spouse. One exception to this requirement occurs when the veteran is confined to a hospital or other care facility and the property was the veteran's residence immediately prior to that confinement, and would have continued to have been so on the lien date were it not for such confinement. In such case, the exemption remains in place provided that the residence is not rented or leased to a third party.[6] Thus, a person who is living in the home rent-free while the veteran is permanently or

[6] Section 279(a)(2).

temporarily confined will not disqualify the property for the exemption. In many instances, it is the spouse of the disabled veteran who continues to occupy the property as his or her principal place of residence while the veteran is confined to a hospital or other medical institution.

Property may include any one of the following:[7]

- Property owned by the 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.
- As much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse, is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation.

Vacant land cannot constitute a principal place of residence and, therefore, cannot qualify for the exemption. However, if a manufactured home, owned or leased, is situated on land owned by the veteran, the veteran's spouse, or the unmarried surviving spouse, and it is the claimant's principal place of residence, then the land could qualify for the exemption. If the manufactured home is owned by the veteran and subject to property taxation, then the exemption may be applied to both the manufactured home and the land. If the manufactured home is subject to the vehicle license fee, the exemption may be applied to the land only; it is not applicable to the vehicle license fee.

QUALIFYING FACTORS

The following factors must be met when determining whether a claimant and/or property qualify for the disabled veterans' exemption:

1. The veteran has received a 100 percent disability rating or 100 percent compensation rating from the USDVA or military service in which he or she was discharged;

   Or the veteran has met the disability requirements regarding eyesight and/or limbs;

   Or the unmarried surviving spouse has received documentation from the USDVA that the veteran died of a service-connected disease or injury

[7] Section 205.5(d).

2. The claimant meets the disability requirements for the period the exemption is sought. To determine the qualification date, the assessor should consider:

    a. The date that the claimant resided at the property as his or her principal residence.

    b. The date that the claimant filed an application for a disability rating with the USDVA.

    c. The date that the disability rating was effective.

    d. The date of the letter from the USDVA transmitting the disability rating.

    e. The date that the claimant filed a claim with the county assessor.

BENEFITS

As stated above, section 205.5 provides the statutory implementation of the disabled veterans' exemption. A qualifying disabled veteran, or the unmarried surviving spouse of the veteran, may claim either of the following benefits on his or her principal place of residence:

- An exemption from property taxation on that part of the full value of the residence that does not exceed $100,000, as adjusted for the relevant assessment year (basic exemption), or

- An exemption from property taxation on that part of the full value of the residence that does not exceed $150,000, as adjusted for the relevant assessment year, when the household income of the veteran does not exceed $40,000, as adjusted for the relevant assessment year (low-income exemption).

INFLATION FACTOR

The California Department of Industrial Relations sets forth the inflation factor prescribed in section 205.5(g) and (h). It is formulated by 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. The following is a table of the household income limits and the exemption amounts for years 2001 through 2008:

Lien Date	CCPI % Change	Income Limit	Basic Exemption / Low-Income Exemption
2001	—	$40,000	$100,000 / $150,000
2002	4.535%	$41,814	$100,000 / $150,000
2003	2.392%	$42,814	$100,000 / $150,000
2004	3.476%	$44,302	$100,000 / $150,000
2005	1.365%	$44,907	$100,000 / $150,000
2006	3.107%	$46,302	$103,107 / $154,661
2007	4.370%	$48,325	$107,613 / $161,420
2008	3.422%	$49,979	$111,296 / $166,944

For subsequent years, the Board will annually provide the indexed household income limit and exemption amounts. The income limit is based on the prior calendar year's income and must be met as of January 1 for the ensuing fiscal year.

PORTABILITY OF THE EXEMPTION

Sections 276.2 and 276.3 together provide for the portability of the disabled veterans' exemption from one property to another. Under prior law, if a claimant changed his or her principal place of residence after the lien date, the disabled veterans' exemption would not terminate on the old residence until the following fiscal year. Under specified circumstances, section 276.3[8] changed this result by providing that:

> (a) In the event that property receiving a disabled veterans' exemption as described in Section 205.5 is sold or otherwise transferred to a person who is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer….

The effective date of the exemption on a claimant's new residence is the date that the claimant establishes the new residence as his or her principal place of residence. Both of following forms must be completed in order to receive the exemption:

- BOE-261-G, *Claim for Disabled Veterans' Property Tax Exemption*, must be filed to claim the exemption for the new residence, and
- BOE-261-GNT, *Disabled Veterans' Exemption Change of Eligibility Report*, must be filed to notify the assessor that the claimant is no longer eligible for the exemption on the previously owned residence.

Even if the claimant's old residence is not sold or transferred prior to the date that the claimant establishes residency at a new property, the exemption on the old residence will terminate and will be applied to the new residence.

SUPPLEMENTAL ASSESSMENTS

The disabled veterans' exemption may be applied toward supplemental assessments,[9] either on a new purchase or new construction. Statutes are unclear as to 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, both for the taxpayer's benefit and for administrative convenience, the exemption should initially be applied to the supplemental assessment for the property. The exemption may be applied under the following circumstances:

1. The taxpayer is qualified and makes a claim, if necessary, for the exemption from supplemental assessment. For a claim to be timely, it must be filed before the 30th day

[8] In effect September 29, 2000.
[9] Section 75.21.

following the supplemental assessment notice. However, no claim is required when the supplemental assessment is for new construction to an existing property if the taxpayer already has a disabled veterans' exemption on the current roll for the property. If there is any excess exemption amount from the current assessment, the county assessor should apply it to the supplemental taxes. If the new construction value exceeds the excess exemption, the claimant should be billed for the net supplemental taxes owed.

2. The property is not receiving another exemption on either the current roll or the roll being prepared. However, if the property is receiving another exemption on either the current roll or the roll being prepared (for example, the homeowners' exemption) and the taxpayer files a claim for the disabled veterans' exemption (which provides a higher exemption amount), then the difference in the amount between the two exemptions should be applied to the supplemental assessment.

Example

- A property is valued at $120,000 on the current roll
- The property has no existing exemption on it
- A change in ownership occurs on August 1, 2001 and the property is reassessed at $200,000
- A supplemental assessment of $80,000 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 $100,000 exemption

The $100,000 exemption may be applied to the supplemental assessment, resulting in a negation of the supplemental assessment. Although there is a $20,000 excess, the exemption may only be allowed to the extent of the supplemental assessment and cannot result in a negative supplemental assessment that would generate refunds. The excess should be applied on a pro rata basis towards the assessment on the regular roll for the portion of the fiscal year in which the claimant owns the property.

Example

- A property is valued at $120,000 and is receiving a $7,000 homeowners' exemption
- A change in ownership occurs on August 1, 2001 and the property is reassessed at $250,000
- A supplemental assessment of $130,000 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 $100,000 exemption

The $100,000 exemption may be applied to the supplemental assessment. However, because the property already receives the $7,000 homeowners' exemption on the current roll, only $93,000 of the exemption may be applied to the supplemental assessment, resulting in a net supplemental assessment of $37,000.

\$100,000 - \$7,000 =	\$93,000	Net exemption amount available
\$130,000 - \$93,000 =	\$37,000	Net supplemental assessment

EFFECTIVE DATE OF EXEMPTION

Section 276.1(b) specifically provides that the disabled veterans' exemption applies beginning on the effective date of the disability rating, as determined by the USDVA. Under prior law, when a claimant became eligible for the exemption in mid-year, the property would not qualify until the following January 1 lien date and the exemption would then be applied for the ensuing fiscal year. Depending upon the effective date of disability rating, up to 17 months could pass before the claimant would benefit from the exemption. Current statute, in effect January 1, 2007, specifically states that the exemption is effective as of the date of the disability rating, subject to the limitation periods on refunds and cancellation.[10]

Therefore, a person who qualified in 2006 will receive the benefits beginning January 1, 2007 if an appropriate application has been filed. Such claimants would not have to wait until the 2007-2008 fiscal year to beginning receiving the benefits.

Example

A serviceman died while on active duty on January 9, 2007.

Under *prior* law, his surviving spouse would have qualified as of next January 1, 2008 to receive exemption benefits for the July 1, 2008 – June 30, 2009 fiscal year, almost one and one-half years later. Under *current* law, the surviving spouse would qualify for the exemption as of February 1, 2007. The exemption would be prorated from the date of qualification.

- 2007-2008 property's assessed value: \$350,000
- Veteran died on January 9, 2007
- Disabled Veterans' Exemption available: \$100,000 as of February 1, 2007
- Taxes owed are based on \$350,000 assessed value from July 1, 2006 to January 30, 2007
- Taxes owed are based on \$250,000 net assessed value after applying the exemption for the period between February 1, 2007 and June 30, 2007

DELAYED DISABILITY RATING

A delayed disability rating occurs when notification of the veteran's disability rating takes place in a calendar year after the year in which the disability rating is effective. In practice, it can take a year or more for a veteran to receive a disability rating from the USDVA, especially where the veteran has appealed his rating. Some disabled veterans do not even become aware of the exemption until after their disability claim has been approved whereupon they receive educational material on the benefits available to them. Another case of a delayed disability rating may occur when an unmarried surviving spouse of a person who died from a disease that

[10] Refunds are subject to the four-year limitation periods as described in section 5097. Cancellations are subject to the provisions of section 4985 et seq.

was service connected (as determined by the USDVA) receives a "back-dated" effective date that the disease was in fact "service connected."

Section 276.1 allows disabled veterans to file for retroactive exemptions when there is a delay in disability rating certification by the USDVA. The retroactive period is between the effective date of the disability and the date the USDVA grants that rating. The county assessor shall cancel or refund the amount of taxes, including any interest and penalties, on that portion of the property's assessed value that would have been exempt if an appropriate claim was filed timely, only if both of the following conditions are met:

1. The claimant's application was pending with the USDVA for a disability rating and subsequently received a rating that qualifies the claimant for the disabled veterans' exemption.

2. The claimant files an appropriate disabled veterans' exemption claim within 30 days of receipt of the USDVA disability rating, or on or before the next following lien date, whichever occurs later.

If a claimant receives a 100 percent disability rating from the USDVA and timely files a claim for the exemption (the later of 30 days after receipt of the disability rating or on or before the next lien date), the claimant is eligible for a 100 percent exemption for prior years, subject to the four-year limitation on refunds in section 5097.

If a claimant receives a 100 percent disability rating from the USDVA but does not timely file for the exemption, the claimant is eligible for an 85 percent partial exemption for prior years, subject to the four-year limitation on refunds.

Since the provisions of section 276.1 became effective on September 20, 2000, in no instance may the late-file provisions be applied earlier than September 20, 1996 due to the four-year limitation of refunds in section 5097.

Example

- Claimant resides in a home since June 2004 as his principal place of residence
- Claimant files on December 5, 2005 with the USDVA for a disability rating
- Claimant receives on February 5, 2007 a 100 percent disability rating from the USDVA, retroactive to May 1, 2005

Claimant files claim for the exemption on December 10, 2007 with the county assessor

The claimant would be eligible for a 100 percent exemption for the period beginning June 1, 2005 (the first day of the month following the month the exemption becomes effective) through June 30, 2005, and for the 2005-2006 fiscal year and all fiscal years thereafter. Since the claimant filed before the next lien date, January 1, 2008, 100 percent of the exemption is allowed.

- Same scenario as above, except

Claimant files claim for the exemption on January 5, 2008 with the county assessor

The claimant would have filed untimely and would only be eligible for an 85 percent partial exemption for the periods qualified (beginning June 1 to June 30, 2005 and fiscal year 2005-2006 and all fiscal years thereafter). Since the claimant received the rating in February 2007 but does not file until January 5, 2008, which is after the next following lien date that the rating was received, only 85 percent of the exemption is available.

Note: Under the delayed disability rating statute, either 100 percent of the exemption is granted for a timely filed claim or 85 percent is granted for a late claim. Unlike the disabled veterans' annual filing, granting 90 percent of the exemption for a late-filed claim is not available in the delayed disability rating provisions.

EXEMPTION AMOUNT NOT PRORATED

PARTIAL INTEREST OWNERSHIP

In instances where a veteran owns a partial interest in his principal place of residence, a qualified claimant is entitled to the full amount of the basic or low-income exemption, up to the value of the claimant's proportional interest in the property, regardless of the percentage interest in a property. The exemption amount is not prorated to the disabled veteran's ownership interest in the property.

Example

> A disabled veteran qualifying for the basic exemption purchased a home for $300,000 with a non-veteran, both owning an equal interest, which they will occupy as their principal place of residence.

The disabled veteran is entitled to the full $100,000 exemption on his $150,000 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 will only be allowed $80,000 for the exemption (the lesser of $100,000 or one-half of $160,000).

With one exception, only one exemption is allowed per property. Thus in the example above, the non-veteran co-owner would not be allowed the homeowners' exemption on his or her interest in the property.

Example

> Two disabled veterans co-own a duplex property in which they reside in one side while a hired caretaker resides on the other side. The property is assessed at $400,000, with the two disabled veterans' side assessed at $250,000.

Section 205.5(f) provides the one exception to the provision that no other exemption may be granted on the same property if a disabled veterans' exemption has been granted on it. When two or more veterans co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest. Thus, both disabled veterans may claim their $100,000 exemption on the one side in which they live. Each will be granted $100,000 on the $250,000 assessed value, for a total of a $200,000 exemption, leaving $50,000 taxable value on their one side. No disabled veterans' exemption could be allowed for the other side of the duplex, regardless if rent is paid to the veterans, since it is not occupied by a disabled veteran as his or her principal place of residence.

INITIAL CLAIM

As discussed above, section 276.1(b) expressly allows the exemption to be effective as of the date of the veteran's 100 percent disability rating or service-connected death. Section 276.1 also provides that the exemption would be effective as of the date of the disability rating when notification of the rating has been delayed by the USDVA. Finally, section 276.2 allows a property to be eligible for the exemption as of the date of acquisition as a new primary residence or upon move-in date to a previously owned property, provided all other qualifications are met. In these cases, the exemption is prorated to the appropriate period of time that the property qualifies.

It is important to note that the exemption amount is not prorated; that is, the claimant is allowed the full $100,000 or $150,000 exemption, not 50 percent of the exemption if there is, for instance, six months remaining from the date of qualification to the end of the fiscal year. The proration is based on the period of time remaining in the current fiscal year that the property would benefit from the exemption.

Example

> The family of a serviceman was living in their home when he became permanently 100 percent disabled due to a service-connected injury on September 2, 2007. He timely filed a claim on October 31, 2007 and qualified for the exemption. On the January 1, 2007 lien date, the property's assessed value was $425,000 and property taxes were based on that value from July 1, 2007 to September 30, 2007.

The exemption would be applied beginning October 1, 2007 (the month after qualification), resulting in a net assessment of $325,000. From October 1, 2007 to June 30, 2008, property taxes should be based upon this reduced assessment. Depending upon the timeliness of paperwork from the county assessor's office, a refund or cancellation of taxes may occur for the current fiscal year.

HOMEOWNERS' EXEMPTION FOR DISQUALIFIED DISABLED VETERANS' CLAIM

There are occasions where a person will file for the disabled veterans' exemption on his or her principal place of residence but the person 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 the following circumstances:

- The claimant is filing the disabled veterans' exemption for the first time.
- The claimant received the disabled veterans' exemption on a principal place of residence in the immediately preceding year and whose exemption claim was timely filed but was disallowed for the current year.

The assessor shall 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 that 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.

LOW-INCOME EXEMPTION

To qualify for the low-income exemption, the household income of a qualifying disabled veteran must not exceed the annual indexed low-income amount (see earlier section "Inflation Factor"). Household income means all income received by all persons of the disabled veterans' household, except income from minors, students, and bona fide renters.

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.
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 provides for an *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.

CHANGE IN ELIGIBILITY

Once a disabled veteran's property tax exemption has been granted, it will remain in effect unless any of the following occurs:[11]

- Title to the property changes.
- The claimant does not occupy the dwelling as his or her principal place of residence on the lien date. If the veteran is confined to a hospital or other care facility on the lien date, but resided at the dwelling immediately prior to the confinement, the veteran will be deemed to occupy that dwelling as his or her principal place of residence on the lien date, provided that the dwelling has not been rented or leased.
- The property is altered so that it is no longer a dwelling.

[11] Section 279(a).

- The veteran is no longer disabled. That is, (1) the USDVA disability rating is no longer at 100 percent or the disability compensation rating is no longer at 100 percent; or (2) the veteran is no longer considered blind in both eyes, if the basis for the exemption was blindness; or (3) the use of one or both of limbs has been restored, if the basis for the exemption was the loss of use of limbs.
- The surviving spouse of the deceased disabled veteran has remarried.

DISABLED VETERANS' EXEMPTION CHANGE OF ELIGIBILITY REPORT

The board-prescribed form BOE-261-GNT, *Disabled Veterans' Exemption Change of Eligibility Report*, must be used to notify the county assessor when the claimant no longer qualifies for the exemption.

In the event that a property receiving a disabled veterans' exemption no longer qualifies for the exemption, the exemption shall cease to apply on the date of disqualification. Termination of the exemption may result in an escape assessment of the property pursuant to section 531.1. It is the responsibility of the taxpayer who has filed a claim for the disabled veterans' exemption to notify the county assessor when the property or the taxpayer is no longer eligible for the exemption. Annually, the county assessor must mail a notice to all taxpayers who received the disabled veterans' exemption in the preceding year.[12] This notice is BOE-261-GNT, *Disabled Veterans' Exemption Change of Eligibility Report*. If the claimant completes and returns the form, the form shall serve as the claimant's notice to the county assessor of a change in eligibility as required by section 279.5.

The notice also provides the annual adjusted threshold income limit for the low-income exemption and the annually adjusted exemption amounts for both the basic and low-income exemption. This notice informs the taxpayer of:

1. The requirements that must be met in order for the exemption to continue;
2. The penalties if the taxpayer allows the exemption to continue when he or she is not eligible for the exemption; and
3. The taxpayer's responsibility to inform the county assessor when he or she is no longer eligible for the exemption.

In addition, the county 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.[13]

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[12] Section 278.
[13] Section 279(b).

TERMINATION OF CLAIM BY COUNTY ASSESSOR

If the county assessor determines that a disabled veterans' exemption has been incorrectly allowed, the exemption should be cancelled and an escape assessment made in the amount of the exemption, with interest as provided in section 506.[14] However, if the exemption was allowed as the result of an assessor's error, the amount of interest should not be imposed.

If the exemption was incorrectly allowed 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 was no longer eligible for the exemption, the penalty provided in section 504[15] should be added to the assessment.

If the property subject to the exemption has been transferred or conveyed to a purchaser during the period commencing with the lien date and ending July 1 of the fiscal year for which the exemption was incorrectly allowed, any amount of penalty provided by section 504 or any amount of interest provided by section 506 imposed pursuant to the escape assessment shall be forgiven. However, if the property subject to the exemption has been transferred or conveyed to a purchaser after July 1 of the fiscal year for which the exemption was incorrectly allowed, the escape assessment shall be levied in accordance with section 531.2.[16]

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.[17] Therefore, a taxpayer's recourse in challenging the denial of the disabled veterans' exemption is to:

- File a claim with the county board of supervisors for a refund of taxes paid; and
- 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 on a property for the first time, for both the basic and the low-income disabled veterans' exemption. The claimant must file the form with the county assessor of the county in which the property is located. All information requested on the form must be provided, including the following information:[18]

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[14] Section 506 provides for an interest rate of three-fourths of 1 percent per month.
[15] Section 504 provides for a penalty amount of 25 percent of the additional assessed value.
[16] Section 279.5.
[17] Property Tax Rule 302, *The Board's Function and Jurisdiction.*
[18] Section 277.

- Name of the person claiming the exemption
- Address of the property
- Statement 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
- Proof of disability

If the claimant is the unmarried surviving spouse, additional documentation to provide to the county assessor should include a document from the USDVA showing that the veteran died of a service-connected injury or disease, the dates of service, and a copy of the marriage license.

A one-time filing is required for the $100,000 basic exemption. However, an annual filing is required for the $150,000 low-income exemption in order to validate that the claimant continues to meet the household income limit restriction.

FILING PERIOD

In order to receive 100 percent of the basic or low-income exemption as of the date the claimant or property qualifies, the initial claim form must be filed between the date of qualification and on or before the following January 1, or 30 days after date of qualification, whichever is later.

For a property generating a supplemental assessment when a property has been purchased or newly constructed, the filing period depends upon whether or not a supplemental assessment has been mailed:

- If a supplemental assessment was mailed, 100 percent of the exemption is available if the claimant files on or before the 30th day following the date of notice of the supplemental assessment.

- If a supplemental assessment has not yet been mailed, 100 percent or the exemption is available if the claimant files between the purchase date and on or before January 1 of the following year, or 30 days after the purchase, whichever is later.

If a claimant is already receiving the exemption but a change from the basic to low-income exemption or from the low-income to basic exemption is sought for the ensuing fiscal year, then the claim form must be submitted between January 1 and February 15.

For the low-income exemption, the annual filing is due between January 1 and February 15 in order to receive 100 percent of the exemption for the ensuing fiscal year.

LATE FILED CLAIM

In instances where a late filing of an annual claim for the low-income exemption occurs or when there is a change in the type of exemption (from basic to low-income or from low-income to basic), a partial exemption shall be 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 shall 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.

- 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, shall be cancelled or refunded. Late filings are subject to four-year limitations on refunds.

For property that would have qualified as of the effective date of the disability rating or the date the residency was established at a property, and which the claim was filed after the following January 1 of the year in which a property or claimant qualified, 85 percent of the exemption is available. In these cases, a 90 percent exemption is not applicable.

For a property generating a supplemental assessment when a property has been purchased or newly constructed, the late-filing periods depend upon whether or not a supplemental assessment has been mailed:

- If a supplemental assessment was mailed, 90 percent of the exemption is available if the claimant files after the 30th day following the date of notice of the supplemental assessment but before the date the first installment of the supplemental tax bill becomes delinquent (this date is shown on the tax bill). If the claim is filed anytime after the first installment, then 85 percent of the exemption is available, subject to the four-year limitations on refunds.

- If a supplemental assessment has not yet been mailed, 85 percent of the exemption is available if the claimant files anytime after January 1 of the following year in which the property was acquired, or 30 days after the purchase, whichever is later. In this case, a 90 percent exemption is not applicable. Late filings are subject to four-year limitations on refunds.

SUMMARY OF PROVISIONS

A chart on the following pages provides a summary of the filing provisions based on the events triggering a claim for the disabled veterans' exemption.

DISABLED VETERANS' EXEMPTION FILING CHART

<table>
<tr><th>Event /
Effective Date of Exemption</th><th>Claimant's Action</th><th>Filing Period for 100% Exemption</th><th>Late Filing
90% of exemption</th><th>Late Filing
85% of Exemption</th><th>Assessor's Action
(Upon Claimant Meeting Qualifications)</th></tr>
<tr><td>Claimant eligible for basic disabled veterans' exemption
Once exemption granted, it remains in effect until terminated.</td><td>One-time filing only
File BOE-261-G</td><td colspan="3">For initial filing period:
See below for "events" triggering claim submission.</td><td>Apply the $100,000 basic exemption as of date of disability as shown on USDVA or other military service documents.</td></tr>
<tr><td rowspan="2">Claimant eligible for low-income disabled veterans' exemption
***
Initial qualifying annual income based on household income for the prior calendar year.
For subsequent filings, prior year's income must be met as of January 1 for continued eligibility for the ensuring fiscal year.</td><td rowspan="2">Annual filing required:
File BOE-261-G
When filing the claim form annually, need only check box on paragraph 1, page 2, under "Statements" and proceed to question #4.</td><td colspan="3">For initial filing period:
See below for "events" triggering claim submission.
For subsequent annual filing:</td><td rowspan="2">Apply the $150,000 low-income exemption as of date of disability as shown on USDVA or other military service documents.
If claimant does not provide yearly household income information, or the claim form is not filed for a certain year (notwithstanding late filing), allow only the basic exemption amount.</td></tr>
<tr><td>January 1 – February 15</td><td>February 16 – December 10</td><td>Anytime after December 10 (subject to four-year limitations on refunds)</td></tr>
</table>

Event / Effective Date of Exemption	**Claimant's Action**	**Filing Period for 100% Exemption**	**Late Filing 90% of exemption**	**Late Filing 85% of Exemption**	**Assessor's Action (Upon Claimant Meeting Qualifications)**
Change in Ownership Claimant purchases primary residence *** Effective date of exemption as of date property purchased, as long as residency is established within 90 days of purchase. (section 276.3) If occupancy occurs after 90 days of acquisition, exemption is effective as of the date of occupancy.	File *BOE-261-G*,	***If supplemental assessment not received:***			Apply exemption as of date property qualifies (i.e., date of purchase). **Issue supplemental assessment and:** • If purchase date is between January 1 and May 31, apply exemption to supplemental assessments for both current roll and ensuing fiscal year. • If purchase date is between June 1 and December 31, apply exemption to supplemental assessment for current roll. Exemption applies to extent of supplemental only. Any excess exemption amount should be applied towards taxes on regular roll, as prorated from date of qualification.
		Between purchase date and on or before January 1 of the following year, or 30 days after purchase date, whichever is later	N/A	Anytime after January 1 (subject to four-year limitations on refunds)	
		If supplemental assessment received:			
		On or before 30th day following the date of notice of supplemental assessment.	After 30 days following date of notice but before date 1st installment of supplemental tax bill delinquent.	Anytime after date 1st installment of supplemental tax bill became due.	

Event / Effective Date of Exemption	Claimant's Action	Filing Period for 100% Exemption	Late Filing 90% of exemption	Late Filing 85% of Exemption	Assessor's Action (Upon Claimant Meeting Qualifications)
DV receives 100% Disability Rating from USDVA or military service *** Effective Date of the exemption is the effective date of the disability as shown on the USDVA certificate. *Examples:*	File *BOE-261-G,*	On or before the following January 1 of the year in which disability rating received, or within 30 days after receipt of disability rating, whichever is later	Not Applicable	Anytime after January 1 of the year following receipt of disability rating (subject to four-year limitations on refunds)	- Apply exemption as of date of qualification. - Refund / cancel taxes prorated from date of qualification. Refunds issued are subject to the limitation periods on refunds (4 years) as described in Article 1 (commencing with Section 5096). Cancellations are subject to the provisions of Article 1 (commencing with Section 4895).
100% Disability rating effective March 3, 2007		March 3, 2007 – January 1, 2008	Not Applicable	Anytime after January 1, 2008	- Apply exemption as of March 3, 2007. - Refund /cancel taxes for 2006-2007 fiscal year between April 1, 2007 and June 30, 2007 and all fiscal years thereafter.
100% Disability rating effective December 20, 2007		December 20, 2007 – January 19, 2008 (within 30 days after disability rating received)	Not Applicable	Anytime after January 19, 2008	- Apply exemption as of December 20, 2007. - Refund / cancel taxes paid for 2007-2008 fiscal year between January 1, 2008 and June 30, 2008 and all fiscal years thereafter.

Event / Effective Date of Exemption	Claimant's Action	Filing Period for 100% Exemption	Late Filing 90% of exemption	Late Filing 85% of Exemption	Assessor's Action (Upon Claimant Meeting Qualifications)
DV receives ***delayed*** disability rating from USDVA (delayed rating occurs when notification of the rating takes place in a calendar year after the year in which the disability rating is effective) *** Effective date of the exemption is the effective date of the disability as shown on the USDVA certificate. *Examples:*	File *BOE-261-G*	Anytime on or before the following January 1 of the year in which the disability rating is effective, or within 30 days after receipt of disability rating, whichever is later	Not Applicable	Anytime after the following January 1 of the year in which the disability rating is effective, or after 30 days from the receipt of the disability rating, whichever is later	- Apply exemption as of date of qualification. - Refund / cancel taxes prorated from date of qualification. Refunds issued are subject to the limitation periods on refunds (4 years) as described in Article 1 (commencing with Section 5096). Cancellations are subject to the provisions of Article 1 (commencing with Section 4895).
Receives rating February 17, 2007 with effective disability rating effective as of May 8, 2005		Anytime on or before January 1, 2008	Not Applicable	Anytime after January 1, 2008	- Apply exemption as of May 8, 2005. - Refund /cancel taxes for 2005-2006 fiscal year between June 1, 2005 and June 30, 2005 and all fiscal years thereafter.

Event / Effective Date of Exemption	Claimant's Action	Filing Period for 100% Exemption	Late Filing 90% of exemption	Late Filing 85% of Exemption	Assessor's Action (Upon Claimant Meeting Qualifications)
Receives rating December 29, 2007 with effective disability rating effective as of August 7, 2006		Anytime on or before January 28, 2008 (within 30 days after disability rating received)	Not Applicable	Anytime after January 28, 2008	- Apply exemption as of August 7, 2006. - Refund / cancel taxes for 2006- 2007 fiscal year between September 1, 2006 and June 30, 2007 and all fiscal years thereafter.
DV establishes residency after lien date at a property already owned. *** Effective date of exemption is the date of move-in.	File *BOE-261-G*	Between move-in date and on or before January 1 of the following year, or 30 days after move-in date, whichever is later	Not Applicable (need to verify)	Anytime after January 1 of the following year after move-in date or after 30 days from receipt of the disability rating, whichever is later	- Apply exemption as of date residency established. - Refund / cancel taxes prorated from date of qualification.
<u>New construction</u> to existing primary residence with DV exemption already in place	None. Additional claim not required.	N/A	N/A	N/A	- Issue supplemental assessment; however, if full amount of the exemption not already used on existing property, apply any remaining exemption to new construction, up to the value of the new construction.

Event / Effective Date of Exemption	Claimant's Action	Filing Period for 100% Exemption	Late Filing 90% of exemption	Late Filing 85% of Exemption	Assessor's Action (Upon Claimant Meeting Qualifications)
<u>New construction</u> of a new primary residence – no exemption in place yet *** Effective date of exemption is date of completion, as long as residency is established within 90 days of completion. If occupancy occurs after 90 days after completion, exemption is effective as of the date of occupancy.	File *BOE-261-G*	***If supplemental assessment <u>not</u> received:***			- Apply exemption as of date property qualifies (date of completion). Exemption does not apply to property during construction. **Issue supplemental assessment and:** • If new construction is completed between January 1 and May 31, apply exemption to supplemental assessments for both current roll and ensuing fiscal year. • If new construction is completed between June 1 and December 31, apply exemption to supplemental assessment for current roll. Exemption applies to extent of supplemental only. Any excess exemption amount should be applied towards taxes on regular roll, as prorated from date of qualification.
		Between completion date and on or before January 1 of the following year, or 30 days after completion date, whichever is later	N/A	Anytime after January 1 of the following year after construction completed (subject to four year limitations on refunds)	
		If supplemental assessment <u>received</u>:			
		On or before 30th day following the date of notice of supplemental assessment.	After 30 days following date of notice but before date 1st installment of supplemental tax bill delinquent.	Anytime after date 1st installment of supplemental tax bill became due.	

Event / Effective Date of Exemption	Claimant's Action	Filing Period for 100% Exemption	Late Filing 90% of exemption	Late Filing 85% of Exemption	Assessor's Action (Upon Claimant Meeting Qualifications)
<u>Change in Eligibility:</u>					
Claimant moves out of primary residence, but still owns property	Immediately file *BOE-261-GNT*		If no longer eligible as of January 1, to avoid 25% penalty of the escape assessment, *BOE-261-GNT* must be filed by June 30.		Cancel exemption as of date property no longer qualifies.
Surviving spouse of deceased DV remarries	Immediately file *BOE-261-GNT*		If no longer eligible as of January 1, to avoid 25% penalty of the escape assessment, form *BOE-261-GNT* must be filed by June 30.		Cancel exemption as of date property no longer qualifies (the date of new marriage).
DV's disability rating downgraded to less than 100% or; DV no longer considered blind or; DV no longer lost the use of two limbs	Immediately file *BOE-261-GNT*		If no longer eligible as of January 1, to avoid 25% penalty of the escape assessment, form *BOE-261-GNT* must be filed by June 30.		Cancel exemption as of date property no longer qualifies (the date DV's disability no longer qualifies him or her for the exemption)
Property altered so that it is no longer a dwelling	Immediately file *BOE-261-GNT*		If no longer eligible as of January 1, to avoid 25% penalty of the escape assessment, *BOE-261-GNT* must be filed by June 30.		Cancel exemption as of date property no longer qualifies

Event / Effective Date of Exemption	Claimant's Action	Filing Period for 100% Exemption	Late Filing 90% of exemption	Late Filing 85% of Exemption	Assessor's Action (Upon Claimant Meeting Qualifications)
Surviving spouse of deceased DV remarried; thus lost eligibility, but subsequently divorces or current spouse dies. *** Effective Date of the exemption is the date surviving spouse becomes single again.	File *BOE-261-G*	Between date claimant becomes single again and on or before the following January 1, or 30 days after unmarried status is established, whichever is later	N/A	Anytime after January 1 (subject to four year limitations on refunds)	- Apply exemption as of date of qualification. - Refund / cancel taxes prorated from date of qualification.
<u>Change in Exemption Type (basic or low-income)</u>					
Claimant previously granted basic DV exemption but thereafter becomes eligible for low-income exemption (Qualifying annual income based on household income for the prior calendar year. Eligibility determined as of lien date of each year.)	Re-file *BOE-261-G* Check box on first paragraph, page 2 under "Statements" and proceed to question #4.	January 1 – February 15	February 16 – December 10	Anytime after December 10 (subject to four-year limitations on refunds)	- Provide for the low-income exemption based on prior calendar year's qualifying income. - Apply the higher exemption amount to the assessment for the ensuing fiscal year.

Event / Effective Date of Exemption	Claimant's Action	Filing Period for 100% Exemption	Late Filing 90% of exemption	Late Filing 85% of Exemption	Assessor's Action (Upon Claimant Meeting Qualifications)
Claimant originally filed and received basic DV exemption but subsequently realizes he/she actually qualified for the low-income exemption in prior years.	Re-file *BOE-261-G* A separate, year sensitive claim form must be filed for each year. Check box on first paragraph, page 2 under "Statements" and proceed to question #4.	As claim is being filed for prior years, in no instance would the filing be considered timely.	February 15 – December 10 for the ensuing or current fiscal year	After December 10 for current fiscal or any prior years (subject to four-year limitations on refunds)	Refund the difference in exemption between the basic and low-income exemption amounts for the periods qualified, less the late filing penalty.
		Example: $166,944 (2008 low-income exemption amount) <***less***> $111,296 (2008 basic exemption amount) = $55,648 x 85% late penalty = $47,300 added exemption to be refunded			
Claimant previously granted low-income DV exemption but as of January 1, now only qualifies for the basic exemption, based on prior year's income,	Re-file *BOE-261-G* Enter your household income (which is now over the low-income limitation) for the prior calendar year on item #4.	January 1 – February 15	February 16 – December 10	Anytime after December 10 (subject to four-year limitations on refunds)	Apply $100,000 basic exemption for the ensuing fiscal year