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No. 2019/001

January 14, 2019

TO COUNTY ASSESSORS:

**WELFARE EXEMPTION
 LOW-INCOME RENTAL HOUSING EXEMPTION LIMITATION**

Revenue and Taxation Code¹ section 214 provides that property owned and operated by qualifying organizations which is used exclusively for religious, scientific, hospital or charitable purposes is eligible for the Welfare exemption. Section 214(g) includes provisions that property used exclusively for rental housing and related facilities serving lower income households qualifies for exemption if specific criteria are met. Senate Bill 1115 (Stats. 2018, ch. 694) amends and adds provisions related to the Welfare exemption that impacts property owned and operated by eligible nonprofit corporations or eligible limited liabilities companies that is used for low-income rental housing, does not receive any government financing or low-income housing tax credits, and 90 percent or more of the occupants are lower income households whose rent does not exceed the rent prescribed in Section 50053 of the Health and Safety Code.²

Increase the statewide exemption limitation.

Effective January 1, 2019, SB 1115 amends section 214(g) to increase the exemption limitation to \$20,000,000 in assessed value for any fiscal year with respect to a single property or multiple properties owned by the nonprofit organization in the state. Prior to the enactment of this bill, the law allowed a maximum \$10,000,000 assessed value exemption limitation.

Require cancellation of certain outstanding taxes.

As of January 1, 2019, section 214.19 is added to the Revenue and Taxation Code to provide for cancellation of up to \$200,000 of outstanding ad valorem tax (including related interest or penalty) owed by a nonprofit organization subject to the exemption limitation with respect to a single property or multiple properties for any fiscal year.³ The taxes must have been levied or imposed between January 1, 2017 and January 1, 2019, and a Welfare exemption claim must have been filed and the property granted partial exemption within that timeframe.⁴ Additionally, as of January 1, 2019, escape assessments are prohibited from being levied on qualified property if that amount would be subject to cancellation pursuant to the provisions of SB 1115.⁵ Please

¹ All statutory references are to the Revenue and Taxation Code unless otherwise noted.

² Property eligible under section 214(g)(1)(C).

³ Section 214.19(b)(1).

⁴ Section 214.19(a)(4) and (b)(1).

⁵ Section 214.19(b)(2).

note that although taxes may be cancelled for qualifying properties, provisions were not made to allow for a refund of taxes in excess of the previous \$10,000,000 limitation already paid by the taxpayer.

Reporting requirements which are not open to public disclosure.

Claimants filing under this provision of section 214(g)(1)(C) must continue with completing and submitting to the assessor an affidavit⁶ that provides the nonpersonally identifiable information about the occupants which includes actual household income, maximum rent that can be charged to the occupant, and actual rent charged.⁷

Enclosed are copies of amended section 214(g), with changes denoted in strikeout/italicized format, and new section 214.19. If you have any questions regarding this exemption, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung, Chief
County-Assessed Properties Division
Property Tax Department

DY:gs
Enclosure

⁶ BOE-267-L2, *Welfare Exemption Supplemental affidavit, Housing – Lower Income Households – Tenant Data.*

⁷ Section 259.14.

Section 214 of the Revenue and Taxation Code is amended to read:

214. (g) (1) Property used exclusively for rental housing and related facilities and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company, meeting all of the requirements of this section, or by veterans' organizations, as described in Section 215.1, meeting all the requirements of paragraphs (1) to (7), inclusive, of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section and shall be entitled to a partial exemption equal to that percentage of the value of the property that is equal to the percentage that the number of units serving lower income households represents of the total number of residential units in any year in which any of the following criteria applies:

(A) The acquisition, rehabilitation, development, or operation of the property, or any combination of these factors, is financed with tax-exempt mortgage revenue bonds or general obligation bonds, or is financed by local, state, or federal loans or grants and the rents of the occupants who are lower income households do not exceed those prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance.

(B) The owner of the property is eligible for and receives low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code of 1986, as added by Public Law 99-514.

(C) In the case of a claim, other than a claim with respect to property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation, that is filed for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code. The total exemption amount allowed under this subdivision to a taxpayer, with respect to a single property or multiple properties for any fiscal year on the sole basis of the application of this subparagraph, may not exceed ~~ten~~ *twenty* million dollars ~~(\$10,000,000)~~ *(\$20,000,000)* in assessed value.

(D) (i) The property was previously purchased and owned by the Department of Transportation pursuant to a consent decree requiring housing mitigation measures relating to the construction of a freeway and is now solely owned by an organization that qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(ii) This subparagraph shall not apply to property owned by a limited partnership in which the managing partner is an eligible nonprofit corporation.

(2) In order to be eligible for the exemption provided by this subdivision, the owner of the property shall do both of the following:

(A) (i) For any claim filed for the 2000–01 fiscal year or any fiscal year thereafter, certify and ensure, subject to the limitation in clause (ii), that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the project's usage and that provides that the units designated for use by lower income households are continuously available to or occupied by lower income households, subject to the exception in clause (iii), at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or

financial assistance conflicts with Section 50053, rents that do not exceed those prescribed by the terms of the financing or financial assistance.

(ii) In the case of a limited partnership in which the managing general partner is an eligible nonprofit corporation, the restriction and provision specified in clause (i) shall be contained in an enforceable and verifiable agreement with a public agency, or in a recorded deed restriction to which the limited partnership certifies.

(iii) (I) In the case of an owner of property that is eligible for and receives a low-income housing tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, a unit shall continue to be treated as occupied by a lower income household if the occupants were lower income households on the lien date in the fiscal year in which their occupancy of the unit commenced and the unit continues to be rent restricted, notwithstanding an increase in the income of the occupants of the unit to 140 percent of area median income, adjusted for family size. However, the unit shall cease to be treated as a lower income unit if the income of the occupants of the unit increases above 140 percent of area median income, adjusted for family size.

(II) This clause shall only be operative from the 2018–19 fiscal year through the 2027–28 fiscal year.

(B) Certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.

(3) As used in this subdivision:

(A) "Lower income households" has the same meaning as the term "lower income households" as defined by Section 50079.5 of the Health and Safety Code.

(B) "Related facilities" means any manager's units and any and all common area spaces that are included within the physical boundaries of the rental housing development, including, but not limited to, common area space, walkways, balconies, patios, clubhouse space, meeting rooms, laundry facilities, and parking areas, except any portions of the overall development that are nonexempt commercial space.

(C) (i) "Units serving lower income households" shall mean units that are occupied by lower income households at an affordable rent, as defined in Section 50053 of the Health and Safety Code or, to the extent that the terms of federal, state, or local financing or financial assistance conflicts with Section 50053, rents that do not exceed those prescribed by the terms of the financing or financial assistance. Units reserved for lower income households at an affordable rent that are temporarily vacant due to tenant turnover or repairs shall be counted as occupied.

(ii) (I) "Units serving lower income households" shall also mean units specified in clause (iii) of subparagraph (A) of paragraph (2).

(II) This clause shall only be operative from the 2018–19 fiscal year through the 2027–28 fiscal year.

Section 214.19 is added to the Revenue and Taxation Code to read:

214.19. (a) For purposes of this section:

(1) "Total exemption amount limitation" means the assessed value exemption amount limitation with respect to a single property or multiple properties that is specified in subparagraph (C) of paragraph (1) of subdivision (g) of Section 214, as that section read before January 1, 2019.

(2) (A) "Qualified property" means property used exclusively for rental housing and related facilities where 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code and that qualifies for exemption under Section 214 on the sole basis of this criteria as specified in subparagraph (C) of paragraph (1) of subdivision (g) of Section 214.

(B) "Qualified property" does not include property owned by a limited partnership in which the managing general partner is an eligible nonprofit organization, as described in subparagraph (C) of paragraph (1) of subdivision (g) of Section 214.

(3) "Qualified taxpayer" means a taxpayer subject to the total exemption amount limitation.

(4) "Qualified claim" means a claim for exemption that was filed for a qualified property with the assessor on and after January 1, 2017, and before January 1, 2019, for which the assessor granted a partial exemption.

(5) "Qualified ad valorem tax in excess of the total exemption amount limitation, and related interest or penalty" means that ad valorem tax levied to a qualified taxpayer on qualified property with respect to a single property or multiple properties that does not exceed twenty million dollars (\$20,000,000) in assessed value and any interest or penalty imposed with regard to that portion of assessed value that was in excess of the assessed value exemption amount limitation.

(b) (1) Any outstanding qualified ad valorem tax in excess of the total exemption amount limitation, and related interest or penalty, which was levied or imposed on and after January 1, 2017, and before January 1, 2019, with respect to a qualified property for which a qualified claim was filed, shall be canceled to the extent that the amount canceled does not result in a total assessed value exemption amount in excess of twenty million dollars (\$20,000,000) being allowed to a qualified taxpayer with respect to a single property or multiple properties that are qualified property for any fiscal year.

(2) On or after January 1, 2019, an escape assessment shall not be levied on qualified property if that amount would be subject to cancellation under paragraph (1).