



STATE BOARD OF EQUALIZATION
 PROPERTY AND SPECIAL TAXES DEPARTMENT
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May 16, 2005

TO INTERESTED PARTIES:

PROPOSED WELFARE EXEMPTION RULES

On April 1, 2005, an interested parties letter was released providing drafts of the proposed welfare exemption rules. Interested parties were invited to submit comments, in the form of alternative language, by April 20, 2005. Staff reviewed the comments received from interested parties, and thereafter, on May 4, 2005, staff posted a matrix (setting forth the comments and staff's position for each comment) and a revised draft of each proposed rule.

An interested parties meeting was held on May 11, 2005, to discuss the revised draft rules posted on May 4, 2005, and the alternative language identified on the matrix. Based on the discussions at the interested parties meeting, staff has made additional revisions to the draft rules. Such revisions are identified on the enclosed draft rules in strikethrough and underline format.

At the May 11, 2005 interested parties meeting, agreement was reached with respect to rule language for proposed rules 141 (renumbered as 140.2), 142 (renumbered as 140), and 143. Please note that the rules were renumbered to address a concern expressed at the interested parties meeting requesting clarification that proposed Rule 143 only applies to nonprofit organizations claiming the organizational clearance certificate under Revenue and Taxation Code section 254.6. With regard to Rule 140 (renumbered as 140.1), agreement was reached on proposed rule language except for the issues discussed below.

RULE 140 (RENUMBERED AS RULE 140.1) – THREE REMAINING ISSUES

1. Charitable Services – Subdivision (a)(6)

Whether the managing general partner is required to provide charitable services or benefits or information regarding charitable services or benefits to low-income housing tenants.

Subparagraph (a)(6)(iv) of the May 4, 2005 draft provided that the managing general partner must ensure that charitable services or benefits or information regarding charitable services or benefits be made available to the low-income housing tenants. However, because providing charitable services is not a statutory requirement to qualify for the exemption, staff has deleted this requirement in the proposed rule.

2. Substantial Management Duties – Subdivision (a)(10)

Whether "substantial management duties" means that the managing general partner actually performs 2 or more of the 11 duties listed in subdivision (a)(10).

Staff's position is that the managing general partner must perform 2 or more of the substantial management duties.

3. Compliance Period – Subdivision (f)

Whether the rule will apply prospectively to all claims and whether the rule should specify a compliance period.

Staff's position is that the rule shall apply prospectively to all claims filed on or after the effective date of the rule, but provide a period of time for compliance. Please note that the revision to the draft rule provides that the partnership management fee ((a)(6)(ii)) and material participation ((a)(7)) may be identified in the limited partnership agreement **or other agreement** executed by all of the general partners in order to assist the limited partnerships in expediting its compliance with the rule.

MAY 23, 2005 – DEADLINE TO PROVIDE ALTERNATIVE LANGUAGE

If you disagree with the staff's position on any of the three issues identified above and would like an alternative position to be presented to the Board on June 30, 2005, for decision (see discussion below), you must submit such comments to staff by May 23, 2005. If you choose to submit such comments, please provide the following information: (1) alternative language that you are proposing to be included in the rule as well as any strikethrough deletions; and (2) specific reasons as to why you are in support of that proposed language, and disagreement with staff's proposed language.

JUNE 30, 2005 – BOARD MEETING

Please be advised that the formal rulemaking process commences once the Board approves regulatory language for publication. The staff will be presenting the staff's proposed rules to the Board at the June 30, 2005 Board meeting, for permission to publish in the formal rulemaking process. Staff will also be presenting a Chief Counsel Memorandum outlining the remaining issues with respect to proposed Rule 140 (renumbered as 140.1) and the alternative language submitted by interested parties and the reasons in support thereof.

If you have questions regarding this rulemaking project, you may contact Ms. Ladeena Ford, Senior Property Appraiser, at 916-324-5839. Questions regarding staff's proposed language should be directed to Tax Counsel Sophia Chung at 916-445-8485.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee, Chief
Assessment Policy and Standards Division

DRK:lf
Enclosures

1 **THE LANGUAGE SET FORTH IN THIS DRAFT OF PROPOSED**
2 **RULE 1402 DOES NOT REFLECT OR REPRESENT THE POSITION**
3 **OF THE BOARD OR ANY BOARD MEMBER.**

4
5 **DRAFT OF PROPOSED PROPERTY TAX RULE 1402**
6 **WELFARE EXEMPTION REQUIREMENTS**
7 **FOR LOW-INCOME HOUSING PROPERTIES**
8

9 (a) **DEFINITIONS.** The definitions set forth in this regulation shall govern the construction of
10 Revenue and Taxation Code section 214, subdivision (g):

- 11
- 12 (1) "Low-income housing tax credits" means that the property owner is eligible for and
13 receives state low-income housing tax credits pursuant to Revenue and Taxation
14 Code sections 12205, 12206, 17057.5, 17058, 23610.4 and 23610.5 or federal low-
15 income housing tax credits pursuant to section 42 of the Internal Revenue Code.
- 16
- 17 (2) "Government financing" means financing or financial assistance from local, state or
18 federal government used for the acquisition, rehabilitation, construction,
19 development, or operation of a low-income housing property in the form of: (1) tax-
20 exempt mortgage revenue bonds; (2) general obligation bonds; (3) local, state or
21 federal loans; (4) local, state or federal grants; (5) any loan insured, held, or
22 guaranteed by the federal government; or (6) project-based federal funding under
23 section 8 of the Housing Act of 1937. The term "government financing" does not
24 include properties that solely receive federal rental assistance through tenant rent-
25 subsidy vouchers under section 8 of the Housing Act of 1937.
- 26
- 27 (3) "Other legal document" means a document that is adopted as a resolution or statement
28 of policy by an organization's board of directors, or executed by an organization's
29 chief executive officer, provided that the board of directors has delegated this
30 authority in writing to the chief executive officer, that restricts the property's use to
31 low-income housing, such that a minimum of 90% of the units of the property are
32 made continuously available to or occupied by lower income households at rent levels
33 defined in subdivision (c) below.
- 34
- 35 (4) "Lower income households" means "lower income households" as defined by section
36 50079.5 of the Health and Safety Code.
- 37
- 38 (5) "Recorded deed restriction" means a deed recorded as an encumbrance against title to
39 the property in the official records of the county in which the property is located,
40 which specifies that all or a portion of the property's usage is restricted to rental to
41 lower income households and identifies the number of units restricted to use as low-
42 income housing.
- 43
- 44 (6) "Regulatory agreement" means an enforceable and verifiable agreement with a
45 government agency that has provided low-income housing tax credits or government
46 financing for the acquisition, rehabilitation, construction, development or operation of
47 a low-income housing property that restricts all or a portion of the property's usage
48 for rental to lower income households. The regulatory agreement shall identify the

1 number of units restricted for use as low-income housing, specify the maximum rent
2 allowed for those units, and be recorded in the county in which the property is
3 located. Until such time as the Regulatory Agreement is finalized and recorded, the
4 Preliminary Reservation Letter from the California Tax Credit Allocation Committee
5 or California Debt Limit Allocation Committee Bond Cap Allocation Letter is
6 acceptable.

7
8 (b) **QUALIFIED CLAIMANTS.** Claimants may qualify for the welfare exemption for low-
9 income housing properties provided that the requirements set forth in either (1) or (2) below
10 are met:

11
12 (1) All claimants listed under Revenue and Taxation Code section 214, subdivision (g)(1) as
13 a qualifying organization, including limited partnerships in which the managing general
14 partner is an eligible nonprofit corporation or an eligible limited liability company, may
15 qualify for the exemption for a particular property provided that:

16
17 (i) the claimant receives low-income housing tax credits or government
18 financing for the particular property; and

19
20 (ii) the property is subject to a recorded deed restriction or a regulatory agreement
21 which is recorded in the county in which the property is located.

22
23 (2) All low-income housing properties, subject to restrictions imposed by an other legal
24 document, defined in subdivision (a)(3) above, owned by claimants listed under Revenue
25 and Taxation Code section 214, subdivision (g)(1) as a qualifying organization, other
26 than limited partnerships in which the managing general partner is an eligible nonprofit
27 corporation or an eligible limited liability company, qualify for the welfare exemption
28 but the amount of the exemption shall not exceed \$20,000 in tax for a single claimant
29 with respect to a single or multiple properties as provided in Revenue and Taxation Code
30 section 214, subdivision (g)(1)(C).

31
32 (c) **LOW-INCOME HOUSING TAX CREDITS AND GOVERNMENT FINANCING.** For
33 purposes of subdivision (b)(1)(i) above, a property has low-income housing tax credits or
34 government financing, as defined in subdivisions (a)(1) and (a)(2), respectively, for the
35 period of time that a regulatory agreement or recorded deed restriction restricts the use of all
36 or any portion of the property for rental to lower income households even if the government
37 financing has been refinanced or has been paid in full, or the allocation of the low-income
38 housing tax credits has terminated or expired, provided that the government agency that is a
39 party to the regulatory agreement continues to monitor and enforce compliance with the
40 terms of the regulatory agreement.

41
42 (d) **PERCENTAGE OF UNITS AND RENT.**

43
44 (1) For claims qualifying under subdivision (b)(1) above, an exemption shall be granted
45 equal to that percentage of the value of the property, which is made continuously
46 available for rental to or occupied by lower income households at rents that do not
47 exceed those prescribed by section 50053 of the Health and Safety Code, or, to the
48 extent that the terms of the regulatory agreement or recorded deed restriction conflict

1 with section 50053, rents do not exceed those prescribed by such terms.
2

- 3 (2) The percentage of the value of the property qualifying for the exemption is based on the
4 actual use of the property for rental to lower income households for the qualifying rent,
5 and is not limited to the percentage designated for use by lower income households in
6 the regulatory agreement, recorded deed restriction, or other legal document. Units
7 reserved for the resident property manager are included in the percentage of units that
8 qualify for the exemption.
9

1 **THE LANGUAGE SET FORTH IN THIS DRAFT OF PROPOSED**
2 **RULE 140.1 DOES NOT REFLECT OR REPRESENT THE POSITION**
3 **OF THE BOARD OR ANY BOARD MEMBER.**

4
5 **DRAFT OF PROPOSED PROPERTY TAX RULE 140.1**
6 **REQUIREMENTS OF MANAGING GENERAL PARTNER**
7 **OF LIMITED PARTNERSHIP FOR WELFARE EXEMPTION**
8 **FOR LOW-INCOME HOUSING PROPERTIES**
9

- 10
11 (a) Definitions. The definitions set forth in this regulation shall govern the construction of
12 Revenue and Taxation Code section 214, subdivision (g), which provides the requirements
13 for the welfare exemption for low-income housing properties owned by a limited partnership
14 in which the managing general partner is an eligible nonprofit corporation.
15
16 (1) “General partner” means “general partner” as defined by section 15611, subdivision (n)
17 of the Corporations Code.
18
19 (2) “Limited partner” means “limited partner” as defined by section 15611, subdivision (q)
20 of the Corporations Code.
21
22 (3) "Limited partnership" means a "limited partnership" as defined by section 15611,
23 subdivision (r) of the Corporations Code, or a "foreign limited partnership" as defined by
24 section 15611, subdivision (l) of the Corporations Code.
25
26 (4) “Limited partnership agreement” means any valid written agreement of the partners as to
27 the affairs of a limited partnership and the conduct of its business, including all
28 amendments thereto.
29
30 (5) "Majority in interest of the general partners" means more than 50 percent of the interests
31 of the general partners, and does not include the interests of any of the limited partners,
32 in the current profits derived from business operations of the limited partnership.
33
34 (6) “Managing general partner” means a general partner that:
35
36 (i) is a nonprofit corporation, or an eligible limited liability company meeting the
37 requirements of Revenue and Taxation Code section 214, designated in the
38 limited partnership agreement as the "managing general partner" of the limited
39 partnership;
40
41 (ii) is authorized to receives a partnership management fee, or similar form of
42 compensation ~~however denominated, the amount for payable in the amount~~
43 and the manner set forth ~~which is set~~ in the limited partnership agreement or
44 other agreement executed by all of the general partners for performing its
45 partnership management duties, ~~to the extent there is any cash flow available~~
46 after payment of all expenses, debt service, and reserves;
47

1 (iii) has “material participation,” as defined in subdivision (a)(7) below, in the
2 control, management, and direction of the limited partnership’s business and
3 such material participation is specified in and required by the terms of the
4 limited partnership agreement; and

5
6 ~~(iv) ensures that charitable services or benefits, such as vocational training,
7 educational programs, childcare and after school programs, cultural
8 activities, family counseling, transportation, meals, and linkages to health
9 and/or social services are provided or information regarding charitable
10 services or benefits are made available to the low-income housing tenants;
11 and~~

12
13 ~~(iv) ~~(v)~~ the officers and directors of the for-profit general partners, for-profit
14 limited partners, or any of its for-profit affiliates, do not, as individuals or
15 collectively, have a controlling vote or majority interest in the nonprofit
16 managing general partner does not have officers, directors, or employees that
17 are also officers, directors, or employees of the for profit general partners or
18 affiliates of the for profit general partner or the for profit limited partners of
19 the limited partnership.~~

20
21 (7) “Material participation” means that the limited partnership agreement or other
22 agreement executed by all of the general partners expressly provides that the
23 managing general partner:

24
25 (i) has a right to vote in all the "major decisions," defined in subdivision (a)(8)
26 below; and

27
28 (ii) performs “substantial management duties,” defined in subdivision (a)(10)
29 below; and

30
31 (iii) directly, or indirectly under its supervision ~~and control~~, manages the limited
32 partnership as specified in the limited partnership agreement.

33
34 (8) "Major decisions" means those acts, if any, that require a vote of a majority in interest
35 of the general partners as specified in the limited partnership agreement.

36
37 (9) “Partner” means a limited or general partner.

38
39 (10) "Substantial management duties" means that the managing general partner actually
40 performs two or more of the following partnership management duties on behalf of
41 the limited partnership:

42
43 (i) rents, maintains and repairs the low-income housing property, or if such duties
44 are delegated to a property management agent, participates in hiring and
45 overseeing the work of the property management agent;

- 1 (ii) participates in hiring and overseeing the work of all persons necessary to
2 provide services for the management and operation of the limited partnership
3 business;
4
- 5 (iii) executes and enforces all contracts executed by the limited partnership;
6
- 7 (iv) executes and delivers all partnership documents on behalf of the limited
8 partnership;
9
- 10 (v) prepares or causes to be prepared all reports to be provided to the partners or
11 lenders on a monthly, quarterly, or annual basis consistent with the
12 requirements of the limited partnership agreement;
13
- 14 (vi) coordinates all present and future development, construction, or rehabilitation
15 of low-income housing property that is the subject of the limited partnership
16 agreement;
17
- 18 (vii) monitors compliance with all government regulations and files or supervises
19 the filing of all required documents with government agencies;
20
- 21 (viii) acquires, holds, assigns or disposes of property or any interest in property;
22
- 23 (ix) borrows money on behalf of the limited partnership, encumbers limited
24 partnership assets, places title in the name of a nominee to obtain financing,
25 prepays in whole or in part, refinances, increases, modifyies or extends any
26 obligation;
27
- 28 (x) pays organizational expenses incurred in the creation of the partnership and all
29 operational expenses; and
30
- 31 (xi) determines the amount and timing of distributions to partners and establish
32 and maintain all required reserves.
33
- 34 (b) The managing general partner must maintain records and documents evidencing ~~each~~
35 ~~partnership management~~ the duties performed by the managing general partner. Such
36 records and documents may include, but are not limited to:
37
- 38 (1) accounting books and records;
39 (2) tax returns;
40 (3) budgets and financial reports;
41 (4) reports required by lenders;
42 (5) documents related to the construction or rehabilitation of real property;
43 (6) legal documents such as contracts, deeds, notes, leases, and deeds of trust;
44 (7) documents related to complying with government regulations and filings;
45 (8) documents related to property inspections;
46 (9) documents related to charitable services or benefits provided or the information
47 provided regarding such services or benefits;
48 (10) reports prepared for the partners;

- 1 (11) bank account records;
- 2 (12) audited annual financial statement of the limited partnership; and
- 3 (13) property management agreement.

4
5 (c) Substitution of Managing General Partner. A limited partnership in which the managing
6 general partner is an eligible nonprofit corporation or an eligible limited liability company
7 that has qualified for the welfare exemption for low-income housing may allow a substitution
8 of its managing general partner by another eligible nonprofit corporation without affecting
9 the organizational qualification for the welfare exemption provided that:

10
11 (1) the limited partnership agreement authorizes the withdrawal or removal of the managing
12 general partner and the admission of a substitute managing general partner on the same
13 effective date and such admission of the substituting managing general partner into the
14 limited partnership is in compliance with the requirements of section 15641 of the
15 Corporations Code; and

16
17 (2) the substitute managing general partner meets all of the requirements of a managing
18 general partner set forth in subdivision (a)(6) above

19
20 (d) Delegation of Authority Clause. If the limited partnership agreement contains a delegation of
21 authority clause, such clause must provide either that:

22
23 (1) the managing general partner may not delegate any of its substantial management duties
24 defined in (a)(10) above; or

25
26 (2) the managing general partner may delegate its substantial management duties, defined in
27 (a)(10) above, to persons who, under its supervision, may perform such duties for the
28 partnership subject to the supervision ~~and approval~~ by the managing general partner. If
29 the managing general partner elects to delegate one or more of its substantial
30 management duties, the managing general partner must demonstrate that it is actually
31 supervising the performance of the delegated duties.

32
33 (e) Certification Requirements. The limited partnership must file for and receive a supplemental
34 clearance certificate from the Board as provided in Regulation 140.21.

35
36 (f) The provisions of this regulation shall apply prospectively to claims or applications for the
37 welfare exemption under Revenue and Taxation Code section 214 and supplemental
38 clearance certificates under Regulation 140.2, filed on or after the effective date of this
39 regulation. For supplemental clearance certificates issued prior to the effective date of this
40 regulation, claimants shall have until the January 1, 2007 lien date to be in compliance with
41 this regulation unless the Board has issued a written notice of that are not in noncompliance.
42 If the Board has issued such notice, claimant shall have 90 days from the date of the notice to
43 comply with this regulation. Upon written request for an extension of time prior to the
44 expiration of the 90-day period to comply, the Board shall be granted a reasonable amount of
45 time to comply with this regulation.

1 **THE LANGUAGE SET FORTH IN THIS DRAFT OF PROPOSED**
2 **RULE 140.21 DOES NOT REFLECT OR REPRESENT THE POSITION**
3 **OF THE BOARD OR ANY BOARD MEMBER.**
4

5 **DRAFT OF PROPOSED PROPERTY TAX RULE 140.21**
6 **REQUIREMENTS FOR SUPPLEMENTAL CLEARANCE CERTIFICATE**
7 **FOR LIMITED PARTNERSHIP FOR WELFARE EXEMPTION**
8 **FOR LOW-INCOME HOUSING PROPERTIES**
9

- 10 (a) A limited partnership in which the managing general partner is an eligible nonprofit
11 corporation or eligible limited liability company, meeting the requirements of Regulation
12 140.1, that owns low-income housing property for which it will claim the welfare
13 exemption shall file with the State Board of Equalization an application for a
14 Supplemental Clearance Certificate for each low-income housing property. The form of
15 the application shall be prescribed by the State Board of Equalization.
16
- 17 (b) A Supplemental Clearance Certificate may be granted only if the managing general
18 partner has already been granted an Organizational Clearance Certificate by the State
19 Board of Equalization, as required under Revenue and Taxation Code section 254.6.
20
- 21 (c) In order to qualify for a Supplemental Clearance Certificate, the general partners of the
22 limited partnership, including the managing general partner, must certify under penalty of
23 perjury under the laws of the State of California, that:
- 24
- 25 (1) The acquisition, construction, rehabilitation, development, or operation of the
26 property, or any combination of these factors, is financed with low-income housing
27 tax credits or government financing, as defined in Regulation 140.2;
28
- 29 (2) There is an enforceable and verifiable regulatory agreement or recorded deed
30 restriction, as defined in Regulation 140.2, that restricts all or a portion of the
31 property's usage for rental to lower income households and the units designated for
32 use by lower income households are continuously available to or occupied by lower
33 income households at rents that do not exceed those prescribed by the terms of a
34 regulatory agreement or recorded deed restriction, as defined in Regulation 140.2 or to
35 the extent that none are provided in the regulatory agreement or recorded deed
36 restriction, at rents that do not exceed those prescribed by section 50053 of the Health
37 and Safety Code;
38
- 39 (3) Funds that would have been necessary to pay property taxes are used to maintain the
40 affordability of, or reduce rents otherwise necessary for, the units to be occupied by
41 lower income households;
42
- 43 (4) The managing general partner meets the requirements of Regulation 140.1; and
44
- 45 (5) All of the information provided as part of the application for the Supplemental
46 Clearance Certificate, including any accompanying statements or documents, is true,
47 correct, and complete to the best of the knowledge and belief of the person(s) signing
48 the application.

1 (d) The following information and documents shall be provided with the application for a
2 Supplemental Clearance Certificate:

- 3
4 (1) Legal name of the limited partnership;
5
6 (2) Legal name of the managing general partner of the limited partnership, its
7 corporate identification number and mailing address, and the date that it became
8 the managing general partner of the limited partnership;
9
10 (3) Name, title, telephone number, and e-mail address of person signing the
11 application for the Supplemental Clearance Certificate;
12
13 (4) The Organizational Clearance Certificate number and the date of issuance to the
14 managing general partner. If an Organizational Clearance Certificate has not been
15 issued to the managing general partner, an application for an Organizational
16 Clearance Certificate must be filed by the managing general partner;
17
18 (5) Complete address of the property for which the limited partnership is seeking the
19 welfare exemption, including the zip code, and the date the limited partnership
20 acquired the property;
21
22 (6) Fiscal year for which the application is made;
23
24 (7) List of any additions or deletions of general partners in the limited partnership, if
25 any, after its formation;
26
27 (8) Copy of Secretary of State form LP-1, Certificate of Limited Partnership, and, if
28 applicable, Secretary of State form LP-2, Amendment to Certificate of Limited
29 Partnership;
30
31 (9) Copy of the regulatory agreement with a public agency, or a copy of a recorded
32 deed restriction which verifies or evidences the receipt of low-income housing tax
33 credits or government financing, as defined in Regulation 1402; and
34
35 (10) Copy of the grant deed or ~~ground lease~~ if the land is not owned by the limited
36 partnership, documents evidencing the limited partnership's ownership of the
37 improvements.

38
39 (e) The limited partnership shall include a copy of the Supplemental Clearance Certificate
40 with its welfare exemption claim filed with the assessor of the county in which the
41 property is located.
42

43 (f) In the event that the general partner designated in the limited partnership agreement no
44 longer meets the definition of managing general partner, as defined in Regulation 140.1,
45 or the managing general partner withdraws from the partnership, the limited partnership
46 shall report such event to the State Board of Equalization and the assessor of the county
47 in which in property is located no later than the next succeeding annual filing deadline for
48 the welfare exemption claim.

1 **THE LANGUAGE SET FORTH IN THIS DRAFT OF PROPOSED**
2 **RULE 143 DOES NOT REFLECT OR REPRESENT THE POSITION**
3 **OF THE BOARD OR ANY BOARD MEMBER.**

4
5 **DRAFT OF PROPOSED PROPERTY TAX RULE 143**
6 **REQUIREMENTS FOR IRREVOCABLE DEDICATION CLAUSE**
7 **AND DISSOLUTION CLAUSE**
8 **FOR ORGANIZATIONAL CLEARANCE CERTIFICATE**
9 **FOR WELFARE EXEMPTION**

10
11 **(a) DEFINITIONS.** For the purposes of this regulation:

- 12
13 (1) “Dissolution clause” means a statement in the organizational documents of a
14 qualifying organization that upon the liquidation, dissolution, or abandonment of the
15 qualifying organization, the exempt property will not inure to the benefit of any private
16 person except another qualifying organization.
17
18 (2) “Irrevocable dedication clause” means a statement in the organizational documents of a
19 qualifying organization that the property is irrevocably dedicated exclusively to one or
20 more qualifying purposes.
21
22 (3) “Organizational document” means the articles of incorporation of a corporation, or the
23 bylaws, articles of association, constitution or regulations of a community chest, fund,
24 or foundation, or corporation chartered by an act of Congress.
25
26 (4) “Qualifying organization” means a community chest, fund, foundation, nonprofit
27 corporation, or eligible limited liability company, organized and operated exclusively
28 for religious, hospital, scientific, or charitable purposes. Charitable purposes include
29 educational purposes as defined in Revenue and Taxation Code section 214,
30 subdivision (j).
31
32 (5) “Qualifying purpose” means a religious, hospital, scientific or charitable purpose.
33 Charitable purposes include educational purpose as defined in Revenue and Taxation
34 Code section 214, subdivision (j).
35

36 **(b) IN GENERAL.** In order to qualify for the welfare exemption provided in Revenue and
37 Taxation Code section 214, among other requirements specified therein, the property owned by
38 a qualifying organization must be irrevocably dedicated exclusively to a qualifying purpose, and
39 upon the liquidation, dissolution, or abandonment of the qualifying organization, the property
40 will not inure to the benefit of any private person except another qualifying organization. In
41 order to satisfy these requirements, the organizational document of the qualifying organization
42 must contain both an irrevocable dedication clause, which meets the requirements set forth in
43 subdivision (c) below, and a dissolution clause, which meets the requirements set forth in
44 subdivision (d) below.
45

46 **(c) IRREVOCABLE DEDICATION CLAUSE.** Property is deemed to be irrevocably dedicated
47 exclusively to a qualifying purpose provided that a qualifying organization’s organizational

1 document contains a statement that irrevocably dedicates its property exclusively to a
2 qualifying purpose.

3
4 (1) If the organization’s charitable purpose is educational purposes as defined in Revenue and
5 Taxation Code section 214, subdivision (j), the irrevocable dedication clause shall state that
6 the property is irrevocably dedicated to educational purposes as defined in section 214,
7 subdivision (j), or that the property is irrevocably dedicated to charitable and educational
8 purposes meeting the requirements of Revenue and Taxation Code section 214.

9
10 (2) If the irrevocable dedication clause states that the property is dedicated to purposes other
11 than the qualifying purposes, the property does not qualify for the welfare exemption.

12
13 (3) If the irrevocable dedication clause states that the property is irrevocably dedicated to a
14 “public” or “public benefit” purpose, the property does not qualify for the welfare
15 exemption.

16
17 (4) The following examples illustrate irrevocable dedication clauses as defined in subdivision
18 (a)(3) above:

19
20 Example No. 1: The property owned by this organization is irrevocably dedicated to
21 charitable, scientific, hospital, or religious purposes.

22
23 Example No. 2: The property owned by this organization is irrevocably dedicated to
24 charitable and educational purposes meeting the requirements of Revenue and Taxation
25 Code section 214.

26
27 Example No. 3: The property owned by this organization is irrevocably dedicated to
28 educational purposes as defined in Revenue and Taxation Code section 214, subdivision (j).

29
30 Example No. 4: The property located in California owned by this organization is irrevocably
31 dedicated to charitable, scientific, hospital, or religious purposes.

32
33 Example No. 5: The property owned by this organization is irrevocably dedicated to
34 charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

35
36 Example No. 6: The property of this corporation is irrevocably dedicated to charitable
37 purposes and no part of the net income or assets of this corporation shall ever inure to the
38 benefit of any director, officer or member thereof or to the benefit of any private person.

39
40 **(d) DISSOLUTION CLAUSE.** In order to qualify for the welfare exemption, the qualifying
41 organization’s organizational document must contain a dissolution clause, which specifically
42 states that its property will be distributed to another qualifying organization entity upon its
43 liquidation, dissolution, or abandonment.

44
45 (1) If the dissolution clause in the organizational document designates a specific organization to
46 receive the distribution, it must state and the designated organization must be a qualifying
47 organization that is organized and operated for a qualifying purpose.

1 (2) The dissolution clause of the qualifying organization may provide that, upon the liquidation,
2 dissolution, or abandonment of the qualifying organization, the property will inure to the
3 benefit of a governmental entity.
4

5 (3) The following examples illustrate dissolution clauses as defined in subdivision (a)(1) above:
6

7 Example No. 1: Upon the liquidation, dissolution or abandonment of this organization, its
8 assets, remaining after payment or provision of payment of all debts and liabilities of this
9 organization, shall be distributed to an organization organized and operated for a charitable,
10 scientific, hospital, or religious purpose meeting the requirements of Revenue and Taxation
11 Code section 214.
12

13 Example No. 2: Upon the liquidation, dissolution or abandonment of this organization, the
14 proceeds or assets related to property located in California, remaining after payment or
15 provision of payment of all debts and liabilities of this organization, shall be distributed to
16 an organization organized and operated for a charitable, scientific, hospital, or religious
17 purpose meeting the requirements of Revenue and Taxation Code section 214.
18

19 Example No. 3: Upon the liquidation, dissolution or abandonment of this organization, its
20 assets, remaining after payment or provision of payment of all debts and liabilities of this
21 organization, shall be distributed to an organization organized and operated exclusively for
22 charitable and educational purposes meeting the requirements of Revenue and Taxation
23 Code section 214.
24

25 Example No. 4: Example No. 4: Upon the liquidation, dissolution or abandonment of this
26 organization, its assets, remaining after payment or provision of payment of all debts and
27 liabilities of this organization, shall be distributed to an organization organized and operated
28 exclusively for educational purposes meeting the requirements of Revenue and Taxation
29 Code section 214, subdivision (j).
30

31 Example No. 5: Upon the dissolution or winding up of the corporation, its assets remaining
32 after payment, or provision for payment, of all debts and liabilities of this corporation shall
33 be distributed to a nonprofit fund, foundation or corporation which is organized and
34 operated exclusively for charitable purposes and which has established its tax exempt status
35 under section 501(c)(3) of the Internal Revenue Code.
36

37 Example No. 6: Upon the dissolution or winding up of the organization, its assets remaining
38 after payment or provision of payment of all debts and liabilities of this organization, shall
39 be distributed to a nonprofit organization which is organized and operated exclusively for
40 charitable purposes.
41

42 **(e) FAILURE TO MEET REQUIREMENTS.**
43

44 (1) If, at the time of filing, the applicant's organizational document does not contain an
45 irrevocable dedication clause and/or a dissolution clause which meets the requirements of
46 subdivisions (c) and (d), respectively, the organization does not qualify for the
47 Organizational Clearance Certificate. However, the applicant may be issued an
48 Organizational Clearance Certificate for the fiscal year for which the Organizational

1 Clearance Certificate is requested on its application if the applicant amends its
2 organizational documents and submits a certified copy of the amendment to the State Board
3 of Equalization by the next succeeding lien date.
4

5 (2) If, at the time of filing, applicant's organizational documents did not contain an irrevocable
6 dedication clause and/or a dissolution clause which meets the requirements of subdivisions
7 (c) and (d), respectively, and the applicant amends its organizational documents after the
8 next succeeding lien date, an Organizational Clearance Certificate may be issued for the
9 fiscal year following the lien date by which the applicant amends its organizational
10 documents and submits a certified copy of the amendment to the State Board of
11 Equalization.
12

13 (3) If the applicant amends its articles of incorporation, the amended articles must be filed with
14 the Secretary of State's office and an endorsed copy must be provided to the State Board of
15 Equalization.
16

17 (4) The county assessor may not approve a welfare exemption claim until the State Board of
18 Equalization has issued an Organizational Clearance Certificate.
19
20