

Property Tax Exemptions Nonprofit Organizations

California State Board of Equalization



Welcome to our presentation for nonprofit and faith-based organizations. This presentation is designed to provide an introduction to California property tax exemptions for eligible groups.

About This Presentation

The following presentation is to be used only as an aid to illustrate general tax concepts, but it does not address every situation.

The Revenue and Taxation Code, regulations, court decisions and other applicable laws generally control the decision making process.

Please contact Board of Equalization staff for a comprehensive response to your specific questions.

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Nonprofit Property Tax Exemptions Property Taxation

In California, all property is taxable unless specifically exempt.

Property tax exemptions require a procedure and are not automatic. Property is:

- Land
- Buildings
- Business personal property

To begin with, in California, all non-governmentally owned property is taxable unless specifically exempt per the California constitution. Depending upon ownership and use, eligible organizations may need to contact the county assessor and, in some cases, the Board of Equalization as well in order to receive an exemption.

When we refer to “property” we’re speaking of land, improvements to land such as buildings and other structures and business personal property.

Nonprofit Property Tax Exemptions Exemption Types

- Exemptions administered by the assessor
- Exemptions jointly administered by the assessor and the Board of Equalization

Broadly speaking, there are two types of property tax exemptions: those administered solely by the county assessor and those jointly administered by the assessor and the Board of Equalization.

Nonprofit Property Tax Exemptions Homeowners



Homeowners' Exemption

An example of an exemption administered by the assessor is the Homeowners' Exemption – whereby a homeowner who owns and occupies their principal place of residence on January the 1st, may be eligible for a savings of approximately \$70 a year. If you have this exemption, it should be reflected on your property tax bill. If not, contact your assessor's office.

Nonprofit Property Tax Exemptions Disabled Veterans'



Disabled Veterans' Exemption

Another residential exemption is the Disabled Veterans' Exemption. A veteran who is 100% disabled, or is being compensated at 100% because of a service-related disability or disease, or the unmarried surviving spouse of such a veteran may be eligible for an exemption on their primary residence. The basic Disabled Veterans' Exemption was \$100,000 in 2006 and has been raised annually. Additionally, claimants who meet income ceilings may qualify for a higher exemption amount. In 2006 it was \$150,000. This exemption has also been increased on an annual basis.

Nonprofit Property Tax Exemptions Faith-Based



Religious Exemption

Church exemptions are available for owned or leased real and personal property used exclusively for worship and parking by a religious organization. Religious organizations may qualify for exemptions of owned real property and owned or leased personal property used for worship and other purposes by applying for a Religious Exemption. The Religious Exemption may also exempt pre-schools, nursery schools, kindergartens, schools of less than collegiate grade, or schools that are both collegiate grade and less than collegiate grade as well as appropriate parking areas. One of the advantages of the Religious Exemption is that it only requires a one-time filing.

Nonprofit Property Tax Exemptions Public Schools and Colleges



Public School And College Exemption

Public School exemptions are available for property leased by public schools and used for public school purposes including property used by the University of California or State colleges. Charter schools may also qualify for the Public School Exemption.

The College Exemption is used by post-secondary education institutions and may be used for owned or leased real or personal property. Stanford University, for example, uses the College Exemption to exempt its property.

Nonprofit Property Tax Exemptions Exemptions Jointly Administered

Exemptions jointly administered by the Board of Equalization and the county assessor:

- Veterans' Organization Exemption
- Welfare Exemption

There are also exemptions jointly administered by the Board of Equalization and the county assessor. These are the exemption for Veterans' organizations and the Welfare Exemption.

Nonprofit Property Tax Exemptions Welfare Exemption

- Title refers to nonprofit organizations providing for the *welfare* of the community
- Jointly administered by Board of Equalization and local county assessor
- Potentially allows broadest exemption of property
- Exempts property owned by nonprofit organization
- If property is owned by a nonprofit but used by another nonprofit, both organizations must file

The title Welfare Exemption derives from the fact that the qualifying organization is granted the exemption because of the welfare it extends to the community. A number of faith-based and nonprofit organizations file and qualify for this property tax exemption.

Nonprofit Property Tax Exemptions Welfare Exemption

Who Files the Welfare Exemption?

- Religious Organizations
- Charities
- Museums
- Theaters
- Zoological Associations
- Open-Space Preservation Organizations
- Organizations involved with Rehabilitation
- Hospitals
- Clinics
- Low-Income Housing
- Nonprofit Schools
- Historical Associations
- ...and others!

Some qualifying organizations include: Religious Organizations, Charities, Museums, Theaters, Zoological Associations, Open-Space Preservation Organizations, Organizations involved with Rehabilitation, Hospitals, Clinics, Low-Income Housing, Nonprofit Schools, Historical Associations, and many others!

Nonprofit Property Tax Exemptions Two-Part Process

Nonprofit organization applies with:

- The Board of Equalization for an Organizational Clearance Certificate (OCC)

and

- Local county assessor for the Welfare Exemption Claim

The Welfare Exemption is granted when the organization receives an Organizational Clearance Certificate from the Board of Equalization and files a Welfare Exemption claim and qualifies with the county assessor.

Nonprofit Property Tax Exemptions Qualifying Purposes

Institution must be organized and operated for one of the following purposes:

- Religious
- Hospital
- Scientific (personal property only)
- Charitable

Educational organizations may qualify if their articles of incorporation contain language required by Property Tax Rule 143.

A wide variety of religious, hospital, scientific and charitable organizations files and qualify for the Welfare Exemption.” Section 214 of the Revenue and Taxation Code states that a qualifying organization must be organized and operated for one or more of the following exempt purposes: **Religious, Hospital, Scientific, or Charitable.**

Nonprofit Property Tax Exemptions Eligibility

- Nonprofit organizations and Limited Liability Companies with nonprofit members
- Organized for religious, hospital, scientific or charitable purposes
- Must have the following tax-exempt status:
 - Internal Revenue Service 501(c)(3) or
 - California Franchise Tax Board 23701(d)
- Property must be used exclusively for qualified exempt activity

To be eligible for the Welfare Exemption, the claimant must be a nonprofit organization or a Limited Liability Company with nonprofit members. The organization must be organized and operated for one or more of the four qualifying purposes – religious, hospital, scientific or charitable. The organization must also have a current exemption letter from the Internal Revenue Service stating that it is a valid 501(c)(3) or a letter from the California Franchise Tax Board stating that it is a 23701(d). The property for which an exemption is claimed must be used exclusively for an exempt purpose.

Nonprofit Property Tax Exemptions Organizational Clearance Certificate (OCC)

Requirements

- Must file OCC claim with Board of Equalization
<http://www.boe.ca.gov/proptaxes/pdf/boe277.pdf>
- Articles of Incorporation filed with California Secretary of State
- Tax letter from Internal Revenue Service or Franchise Tax Board
- Annual financial statements (income statement and balance sheets)
- Documentation supporting exempt activity (e.g., pamphlets, brochures, etc.)

The Welfare Exemption involves two agencies: The Board of Equalization reviews the organization's formative documents and issues an Organizational Clearance Certificate to eligible groups. The local county assessor reviews the property for qualifying use and issues the exemption. Some of the requirements for an Organizational Clearance Certificate are:

- Current Articles of Incorporation filed with the Secretary of State
- Tax Letter from Internal Revenue Service or Franchise Tax Board
- Annual financial statements
- Documentation supporting exempt activity

Nonprofit Property Tax Exemptions Organizational Clearance Certificate (OCC)

- A claim for an Organizational Clearance certificate should be filed with the Board of Equalization as soon as the organization acquires taxable property that will be used for exempt activity
- Claims may be filed with the Board of Equalization at any time during the year
- Organizational Clearance Certificate claim forms:
 - www.boe.ca.gov/proptaxes/pdf/boe277.pdf

To file an Organizational Clearance Certificate, visit the Board of Equalization's website at www.boe.ca.gov. Under *How Do I* click *Property Tax Information* find *Information About* and click on *Welfare and Veterans' Organization Exemptions*. You'll be taken to the Organizational Clearance Certificate area of the website where you'll find claim forms and links to more information on the exemption and the process.

With your claim you will need to submit current Articles of Incorporation filed with the California Secretary of State, a valid Tax Letter from Internal Revenue Service or Franchise Tax Board, copies of annual financial statements, and documentation of the exempt activity of the organization. This can take the form of pamphlets, brochures, newspaper articles, or other material supporting the organization's exempt activities.

Nonprofit Property Tax Exemptions Welfare Exemption Claim Requirements

- A claim for Welfare Exemption is filed with assessor where property is located (forms are often available on assessor's website)
- Organization may file for Welfare Exemption before receiving Organizational Clearance Certificate
- Requires valid Organizational Clearance Certificate for assessor to grant exemption
- Also file Supplemental Affidavit forms if:
 - Low Income Housing
 - Elderly/Disabled Housing
 - Rehabilitation
- List other organizations using property
- Requires annual filing

Since the assessor may not grant a welfare exemption until the organization has received an Organizational Clearance Certificate, it's important to start the Organizational Clearance Certificate process as early as possible after acquiring property. Once an organization acquires property that will be used for exempt activity it should begin the Organizational Clearance Certificate process as well as complete a Welfare Exemption claim available from the assessor of the county in which the property is located. Welfare claims are often available on the assessor's website or else directly by contacting that office.

If the property is to be used for Low Income Housing, Housing for Elderly or Handicapped or Rehabilitation of Individuals, supplemental forms in addition to the Welfare Exemption claim are required. These forms, too, are available through the local county assessor. The assessor will want to know that the entire property is used for exempt purposes. Please be sure to include any other organization that may use the property - either on a permanent or temporary basis.

Nonprofit Property Tax Exemptions Welfare Exemption Claim Requirements

- File for each location
- Effective January 1, 2009, exempt activity must commence within 180 days of acquisition of property (Property acquired prior to January 1, 2009, must have qualified within 90 days)
- Assessor will perform site visit
- After the first filing, Welfare Exemption claims are due annually by February 15

Once a Welfare Exemption is granted, the organization is required to re-file annually by February the 15th. This is an opportunity to inform the assessor of any changes to the use of the property that may affect the exemption.

An organization is only required to file once for an Organizational Clearance Certificate. However, it is required to file a Welfare Exemption claim for each property for which it seeks exemption.

If the property was acquired prior to January 1, 2009, it must have been used for exempt purposes within 90 days. If the property was acquired after January 1, 2009, it must have been used for exempt purposes within 180 days.

Once the Welfare Exemption is submitted to the assessor, a representative from that office will visit the property to review its use. The Welfare Exemption requires annual filing. To avoid penalty, the claim must reach the assessor or be postmarked by February the 15th.

Nonprofit Property Tax Exemptions Retroactive Filing

- Exemption may apply from date property was acquired
- May file for up to 4 prior years
- Maximum late-filing penalty for retroactive filing is \$250 per year, per property
- Late-filing penalty is deducted from any refund
- A Welfare Exemption claim is required for each year exemption is sought

There is a retroactive provision to the Welfare Exemption whereby eligible organizations may be able to file for exemption back to the date of acquisition up to four previous years.

The late-filing penalty of \$250 per year will be deducted from any refund of taxes. The assessor will require a Welfare Exemption claim for each year the organization is filing.

Nonprofit Property Tax Exemptions Use of Property by Other Organizations

- Must be exempt use only
- Use must be incidental
- Outside organization must be an exempt organization under:
 - Internal Revenue Code 501(c)(3) or 501(c)(4)
 - Franchise Tax Board 23701(d)

As a vital part of the community, exempt organizations are frequently approached by individuals or groups interested in using their property. In order to retain a full exemption, outside groups must be exempt and their use of the property must be for an exempt activity.

Nonprofit Property Tax Exemptions Use of Property by Other Organizations

The use of exempt property by other organizations once a week or less does not require an exemption claim...

but

- Use must be incidental
- No fundraising by other organization
- Owner must have user's tax exemption letter on file
- Use more than once a week requires an Organizational Clearance Certificate and approved Welfare Exemption claim

The use of the property one time a week or less does not require the outside organization to also file an exemption claim. Use of the property must be incidental, with no fundraising and the property owner should have a copy of the group's tax exemption letter from Internal Revenue Service or Franchise Tax Board. Use of the property more than once a week requires the outside organization to also file a Welfare Exemption claim.

Nonprofit Property Tax Exemptions Partial Exemption

- Use of the property may qualify for a partial exemption
- Exemptions are pro-rated according to portion of property used for exempt activity – not percentage of time used for exempt activity
- Vacant, unused or excessive property does not qualify for exemption
- Exemptions are annually reviewed for the exempt use as of January 1

If a property is not completely used for exempt purposes or it is in excess of what is reasonably necessary to accomplish its exempt purpose, it may be granted a partial exemption. The assessor's office will make an annual determination based on information from the Welfare Exemption claim and site visits to the property.

For financial or other reasons, exempt organizations may decide to lease portions of their property to non-qualifying groups. Those portions will not qualify for an exemption. The assessor's office may then grant a partial exemption prorated on the exempt versus non-exempt use.

The value of property used for non-qualifying purposes is subtracted from the overall exemption. Because of the possible impact on taxes, it is important that any decision regarding the use of property is thoroughly discussed with the county assessor.

Nonprofit Property Tax Exemptions Supplemental Clearance Certificate (SCC)

(required for most low-income housing properties*)

- Must file for SCC with Board of Equalization. Use claim form BOE 277-L1:
www.boe.ca.gov/proptaxes/pdf/boe27711.pdf
- Submit copy of property grant deed and regulatory agreement or deed restriction
- Submit Secretary of State form LP1
- Include any LP amendments (LP-2, LP-6 or LP-10)

*Required by low-income housing properties owned and operated by a limited partnership with a qualifying nonprofit as a managing general partner

Organizations filing for low-income housing will also need to receive a Supplemental Clearance Certificate from the Board of Equalization. The claim will require copies of the grant deed and regulatory agreements or deed restrictions regarding low-income requirements attached to the property.

Nonprofit Property Tax Exemptions Helpful Links

- Claim for Organizational Clearance Certificate:
www.boe.ca.gov/proptaxes/pdf/boe277.pdf
- Claim for Supplemental Clearance Certificate:
www.boe.ca.gov/proptaxes/pdf/boe27711.pdf
- Assessors' Handbook: AH267: *Welfare, Church and Religious Exemptions*
www.boe.ca.gov/proptaxes/pdf/ah267.pdf
- County assessors and contact Information:
www.boe.ca.gov/proptaxes/assessors.htm

The following slides illustrate a number of helpful links. You'll be able to access them at the end of this presentation.

Nonprofit Property Tax Exemptions Helpful Links

- Irrevocable Dedication and Dissolution language (Property Tax Rule 143):
www.boe.ca.gov/proptaxes/pdf/143Adopted.pdf
- Publication 149 – Property Tax Welfare Exemption:
www.boe.ca.gov/proptaxes/pdf/pub149.pdf
- Frequently asked questions:
www.boe.ca.gov/proptaxes/faqs/faqspropindex.htm
- List of eligible organizations:
www.boe.ca.gov/proptaxes/welfareorgeligible.htm
- Contact us: www.boe.ca.gov/info/contact.htm

Nonprofit Property Tax Exemptions Helpful Links

- Organizational Clearance Certificate and Supplemental Clearance Certificate:

916-445-3524

- Welfare Exemption Claim forms and assessor information:

www.boe.ca.gov/proptaxes/assessors.htm

Taxpayer Information Section



- 800-400-7115
800-735-2929 (TDD)
- Monday – Friday
8 a.m. – 5 p.m.
- 1-1 assistance
- 24 hr. fax back service
- Recorded information

Our service representatives are available to assist you during regular business hours Monday through Friday.

Get It In Writing

A person must make a request in writing for advice from the Board whether an activity or transaction is subject to tax, and the request must fully describe the specific facts and circumstances of the activity or transaction.



Board of Equalization
Audit and Information Section
450 N Street, MIC:44
Sacramento, CA 95814

Revenue and Taxation code section 6596 – “Excusable Delay-Reliance on Advice”, states:

“If the Board finds that a person’s failure to make a timely return or payment is due to the person’s reasonable reliance on written advice from the Board, the person may be relieved of taxes imposed by §6051 and §6201 and any penalty or interest added thereto...”

Your specific situation may not have been covered in the presentation. If you need additional information, please send us your detailed request in writing to:

Board of Equalization
Audit and Information Section
450 N Street, MIC:44
Sacramento, CA 95814

Taxpayers' Rights Advocate



If you have been unable to resolve an issue with the Board, or if you would like to know more about your rights under the law, contact the Taxpayers' Rights Advocate at:

888-324-2798

www.boe.ca.gov/tra/tra.htm

When you have exhausted all other avenues, the Taxpayers' Rights Advocate office is available to step in and help you. They can also explain more about your rights under the law.

Thank You

Thank you for all the important work you do for the State of California.



We'd like you to know that we're here to help in whatever capacity we can. In addition to the information presented here, you may also be interested in attending one of our free seminars. Please see our website for a list of upcoming events. Finally, we want to take this opportunity to express our appreciation for everything you do for the citizens of California.