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NO. 89/77

TO COUNTY ASSESSORS:

DISABLED VETERANS' EXEMPTION:
ELIGIBILITY OF UNMARRIED SURVIVING SPOUSE

Recently, two questions have resurfaced concerning the eligibility of an unmarried surviving spouse for the Disabled Veterans' (property tax) Exemption. For the benefit of others who may have similar situations, the questions and our responses are as follows:

Question: The unmarried surviving spouse of a totally disabled veteran qualifying for and receiving the Disabled Veterans' Exemption remarries and loses the exemption. Upon divorce from, or the death of, the second spouse, should eligibility for the exemption be restored?

Answer: Yes. Both the California Constitution (Article XIII, Section 4(a), and Revenue and Taxation Code Section 205.5 provide the exemption is available to the "unmarried surviving spouse". Therefore, the exemption is lost only during the period(s) of (re)marriage.

Question: A veteran receives a 30% disability due to a service connected disease (for example, malaria) as determined by the Veterans' Administration and is thus ineligible for the Disabled Veterans' Exemption. The veteran subsequently dies as a result of that disease. Is the unmarried surviving spouse eligible for the exemption?

Answer: Yes. Revenue and Taxation Code 205.5(c) provides the exemption to the unmarried surviving spouse of a veteran that: (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 from a service connected disease. While the first two instances require that the veteran had to qualify for the exemption (i.e., be rated as 100% totally disabled), the latter instance only requires that the veteran died of a disease which was service

connected. Thus, in this latter instance, the unmarried surviving spouse may be eligible for exemption even though the veteran was not.

If you have any questions concerning the above, please contact our Exemption Unit at (916) 445-4982.

Sincerely,

Verne Walton

Verne Walton, Chief
Assessment Standards Division

VW:wpc
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