STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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TO COUNTY ASSESSORS:

EFFECTIVE ADMINISTRATIVE PRACTICES – WELFARE EXEMPTION

In the administration of the Welfare Exemption, assessors' staff must review a myriad of detailed information when determining a property's eligibility for the exemption. To ensure compliance with the California Constitution and the applicable statutes for the Welfare Exemption, and to provide equal and consistent treatment to all claimants, assessors' staff must have a working knowledge of the exemption employing a standardized and consistent approach to its administration.

Assessment practices surveys completed during the past few years have discovered an increasing number of issues for the Welfare Exemption topic, resulting in numerous recommendations in the final reports. Although there are a number of resources currently available[1] to assist assessors' staff in the proper administration of this exemption, we have compiled the more frequent recommendations and offer guidance on the processing procedures related to these recommendations.[2] This letter addresses the following issues:

Organizational Clearance Certificates
Receipt of Claims
Field Inspections
Exempt Only Qualifying Property
Late Filing
Claimant Notification
Prorate the Exemption
Low-Income Housing – Rental Units
Low-Income Housing - Builders

If you have any questions regarding the Welfare Exemption, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee
Acting Deputy Director
Property Tax Department

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[1] Resources include annotated letters or other legal opinions, Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions,* Letters To Assessors, BOE website information on the Welfare Exemption, assessor in-house processing manual/guidelines, and information distributed at the classes presented by the California Assessors' Administrative Services Association Education Committee.

[2] A separate Letter To Assessors will be issued to provide guidance on the partial exemption for low-income housing.

Organizational Clearance Certificates

Ensure that the claimant has a valid Organizational Clearance Certificate (OCC) or Supplemental Clearance Certificate (SCC).

***References*:** Revenue and Taxation Code[3] sections 254.5(a) and 254.6

The assessor may not approve a property tax exemption claim until the claimant has been issued a valid clearance certificate. Claimants are required to provide a copy of their Board-issued OCC and/or SCC when an organization files a claim for the Welfare Exemption for the first-time in a county. Handwritten organization names and corporate ID/BOE EX numbers on a blank OCC or SCC form do not constitute valid certificates.

In an effort to meet filing date deadlines, claimants may file claims with the assessor while awaiting the issuance of the OCC or SCC, and the assessor should accept the claims as timely filed even if the OCCs are issued after the filing deadline date has passed.

Assessors' staff should also verify the date the exemption is claimed falls within, or subsequent to, the first fiscal year indicated on the certificate. Additionally, annual verification that the claimant's certificate is still valid must be made by cross-checking with the BOE's list of eligible organizations holding an OCC or SCC and by reviewing quarterly updates to identify newly issued or revoked certificates. In 2011, the BOE began issuing County Assessors Only letters throughout the calendar year listing revoked OCCs and SCCs allowing exemption staff to expedite their review of an organization's eligibility for the Welfare Exemption.

For low-income housing owned and operated by a limited partnership, the assessor must ensure the claimant holds both an OCC and an SCC prior to granting the exemption. Additionally, the SCC should be carefully reviewed to ensure that the managing general partner, the limited partnership name, and the property address correspond to the property on the exemption claim.

If a claimant's eligibility or continued eligibility for an Organizational Clearance Certificate is not confirmed, the assessor may be granting exemptions on property not eligible for an exemption. Valid certificates and quarterly updates are posted on the BOE website at:

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

[3] All statutory references are to the Revenue and Taxation Code unless specified otherwise.

Receipt of Claims

Ensure all exemption claims are date-stamped for date received or postmark date.

Date-stamping all claims upon receipt ensures equal treatment among claimants. If claims are not date-stamped, the assessor has no record that a claim was filed timely or filed late. When claims are filed after their deadline dates, the envelope bearing the postmark date should be retained for proof of the filing date.

Annual claim forms must be filed for the lien date.

***Reference*:** Sections 255(a) and 254.5(a)

Annual claims for the Welfare Exemption must be filed with the assessor between January 1 and 5:00 p.m. on February 15.

Claim forms require the claimant to report the description of the property, the primary and incidental uses of the property, as well as information about the organization and other user(s) of the property. The information reported by the claimant allows the assessor to make an informed review of the organization's use of the property on the lien date, since its use on the lien date determines the property's eligibility for the exemption for the ensuing fiscal year.

Accepting claim forms prior to the lien date can result in a premature determination that the property is eligible for exemption and may result in granting an exemption on property that is not eligible.

Grant exemption only for years in which a claim is filed.

***Reference*:** Section 260

Some assessors have allowed exemptions for years the claimant did not submit a claim form, such as when the claimant missed an annual filing or when claims were submitted for multiple consecutive years, but did not include claims for a prior year or for subsequent years. When a claim is not filed for a particular year, property is not eligible for exemption. If a claimant fails to follow the required filing procedures, the exemption is deemed waived.

Field Inspections

Conduct field inspections on all first-time filings for new locations.

Reference: Section 254.5(b)(1)(B)

The assessor must ensure that a property meets the use requirements for the Welfare Exemption and determine whether the entire property, or a portion of it, is eligible for exemption. The assessor must also determine that a property does not exceed an amount reasonably necessary for the accomplishment of the exempt purpose and verify whether any new construction activities were commenced as of the lien date so as to avoid granting exemption on vacant property. These requirements can only be accomplished by an actual onsite physical inspection. It is essential for staff to complete a field inspection report (FIR) on all first-time claims on a property and to include and maintain the FIR in a readily accessible file along with other relevant documents.

Field inspections may also be warranted when there is a reported change in the use or in any of the users of the property. Periodic inspection at any other time when the assessor believes it is warranted is also good practice. Notes in the field inspection reports will clarify the history of the exemption.

The assessor should use a standardized form to accurately document the claimant's property use observed during the field inspection. The form may be one that is developed by the assessor or the suggested BOE-267-FIR, W*elfare Exemption Assessor's Field Inspection Report*.

Although affidavits claiming the Welfare Exemption for the first time may be destroyed by the assessor six years after the lien date of the tax year for which the exemption was last granted ***or*** upon preservation in a medium that provides access to the documents,[4] good administrative practice is to have all field inspection reports or any notes pertaining to the use of the property readily available in the property's file in case questions arise regarding the exempt uses of the property or reasons to support partial exemption.

Although there is no statutory requirement to perform field inspections on all properties filing an exemption claim, it is the most reliable method the assessor can use to ensure qualified property use.

[4] Section 465(b) provides that "mediums" include, but not limited to, microfilm, microfiche, electronic document imaging, or other media that captures a true image of the document that may later be retrieved.

Exempt Only Qualifying Properties

Ensure only qualifying properties receive an exemption.

Staff must thoroughly review both first filings and annual claims for any disqualifying use of a property. Property, or portions of it, used by a for-profit entity or an individual, or an affiliate organization that is the lobbying arm of the nonprofit are examples of disqualifying uses. Property that is vacant or not used for an exempt purpose, even if the user is a qualifying exempt entity, is also not eligible for exemption. If uncertain whether a particular use qualifies for exemption, staff should review the resources available to them or may make inquiries to the BOE at:

www.boe.ca.gov/info/contact.htm

Exempt property only if eligible as of lien date.

***Reference*:** Sections 405 and 2192

In general, the taxable status of property is determined as of the lien date. With the exception of property acquired after the lien date,[5] entities claiming the Welfare Exemption must meet all of the requirements for the exemption as of 12:01 a.m. on the January 1 lien date in order to receive the exemption for the ensuing fiscal year.

Example 1

- Land and old building is vacant January 1, 2014
- Demolition of building on the land occurs in March 2014
- Construction of a new building begins in April 2014

Available Exemption:

1) Building is completed November 1, 2014 (same year as start of construction); owner moves in and uses it for exempt purposes
   - 2014-15, Regular roll – Vacant property not exempt, because there was no exempt use as of January 1, 2014 lien date.
   - 2014-15, Supplemental Roll – Exempt the supplemental assessment for the new base year value as of the November 1, 2014 completion of new construction. The supplemental assessment reflects the difference in value that was placed on the roll as of the January 1, 2014 lien date (land and old vacant building) and the November 1, 2014 new base year value (land and new building), for the remainder of the year through June 30, 2015.
   - 2015-16, Regular Roll – Exempt, based upon the January 1, 2015 value, which is generally the same as the base year value determined on November 1, 2014.
2) Building is completed February 1, 2015 (after January 1, 2015 lien date)

[5] Section 271.

- 2014-15, Regular roll – Vacant property not exempt, because there was no exempt use as of January 1, 2014 lien date.
- 2015-16 Regular Roll – Value of land and improvements under construction as of lien date January 1, 2015 are exempt. Article XIII, Section 5 provides that the welfare exemption applies to buildings under construction, land, and equipment in them if the intended use would qualify the property for exemption.
- 2014-15, Supplemental Roll, - Exempt the supplemental assessment for the new base year value established upon the February 1, 2015 completion of new construction. This reflects the difference in value that was placed on the roll as of January 1, 2014 lien date (land and vacant old building) and the February 1, 2015 new base year value (land and new building), for the remainder of the fiscal year through June 30, 2015.
- 2015-16, Supplemental Roll, - Exempt the supplemental assessment for the new base year value established upon the February 1, 2015 completion of new construction. This reflects the difference in value that was placed on the regular roll as of January 1, 2015 lien date when it was still under construction and the February 1, 2015 new value.

Example 2

- Nonprofit owns building and occupies the first floor as of January 1, 2013
- Second floor is vacant January 1, 2013
- Nonprofit leases second floor to another nonprofit (operator) for exempt use from April 1, 2013 to March 31, 2016

Available Exemption:

- 2013-14, Regular roll – Partial exemption for 2013-14. The first floor is exempt; however, the second floor is taxable because there was no exempt use as of January 1, 2013 lien date.

- 2014-15, Regular Roll – Entire building eligible based upon exempt use as of January 1, 2014 lien date. Note: Exemption on the second floor was not available until 15 months after exempt use began.

Example 3

- The above nonprofit lessee in Example 2 moves out three years later on March 31, 2016.

- The nonprofit owner leases the building to a for profit entity as of May 1, 2016.

Available Exemption (prospective):

- 2016-17, Regular roll - Entire building eligible for exemption because it is used for exempt purposes as of January 1, 2016 lien date, even though the nonprofit tenant moves out in March 2016, and a for profit entity occupies the second floor during the entire 2016-17 fiscal year.

- Except for property acquired after lien date or for organizations not in existence on lien date, exemptions are based on lien date use. In this case, on lien date January 1, 2016, the owner and operator qualified the property for exemption for the ensuing fiscal year. As noted above, exemption was not available until 15 months after the nonprofit leased the property (at the front end of the lease); however, the property qualifies for exemption at the back end of the lease, continuing for 15 months after the nonprofit tenant moves out and no longer used for exempt purposes.

Late Filing

Apply the appropriate late-filing provision when annual claims are filed after February 15.

***Reference*:** Section 270

Renewal of the Welfare Exemption requires a claimant to file a claim annually with the assessor. A timely claim is one filed between the January 1 lien date and on or before February 15.[6]

- When an annual claim is filed after February 15, but on or before the next lien date, only 90 percent of the full amount of the exemption is available. Thus, 90 percent of any tax or penalty or interest must be cancelled or refunded.
- If filed after the next lien date, 85 percent of any tax, penalty, or interest must be cancelled or refunded.
- Notwithstanding the above, the reduced exemption due to late filing is subject to a $250 limitation on the amount of taxes that may be assessed per claimant per county.

Allowing late-filed claims 100 percent of the exemption enables a greater tax exemption than that permitted by statute.

To determine the reduced exemption for a late filing, the assessor must first determine if the 90 percent or 85 percent reduction of taxes would be less than or greater than $250. If the resultant tax is less than $250, then the appropriate percentage reduction should be used. If the resultant tax is greater than $250, the maximum $250 tax applies.

To calculate the $250 limitation on taxes, the overall tax rate for the property's specific location must be obtained. The tax rate is then divided into $250, resulting in the net assessed value for the property, typically between $20,000 and $25,000.[7] To check the calculation, multiply the net assessed value by the applicable tax rate, which should result in a $250 tax for the property. An important note is that the claimant remains responsible for any special assessments or direct levies included with the tax bill as these assessments are not exempt.

[6] When February 15 falls on a Saturday, Sunday, or holiday, the claim is timely if filed by the end of the next business day. Government Code section 6700, 6706, and 6707.

[7] A net assessed value of $25,000 is rare and only occurs when the overall tax rate consist only of the 1 percent tax rate with no other added rates from voter-approved indebtedness, such as schools or water districts.

Examples:

Assessed Value	Claim filed Late -- 90% Net Assessed Value	Tax Rate[8]	Tax	If Tax is Greater Than $250, Determine the Net Assessed Value for $250 Maximum Tax
$200,000	$20,000*	1.083%	$216.60	N/A
$800,000	$80,000	1.083%	$866.40	$250/.01083 = $23,084 net assessed value $23,084 x 1.083% = $250 tax ($776,916 exemption available)

[*] The language of the statute states that 90 percent of any *tax* shall be cancelled. This in effect is the same as reducing the assessed value by 90 percent, as demonstrated:

$200,000 x 1.083% = $2,166 tax.
Reducing this *tax* by 90 percent = $2,166 – (.90 x $2,166) = $216.60.

Apply the appropriate late-filing provision when NEW claims are filed.

Reference: Section 271

First-time filings for organizations, whether they were in existence or not on the lien date, who acquire property after the lien date must file a claim the ***earlier*** of 90 days from the first day of the month after the month the property was acquired, or by February 15 of the following calendar year after acquisition. When an application for exemption is not filed timely on a new property location, 85 percent of any tax or penalty or interest must be cancelled or refunded, subject to a $250 limitation on amount of taxes per claimant per county that may be assessed.

[8] The tax rate consists of the 1 percent statewide tax rate plus any bonds or other assessments added on to the basic rate as a percentage.

Claimant Notification

Properly notify claimants when a portion of the property is denied the Welfare Exemption.

***Reference*:** Section 254.5(c)(2)

Assessors must not only notify claimants when their exemption is denied, but they must also properly notify claimants in writing when any portion of a property is ineligible, even if the reason is due to late filing. The notice should be dated and identify the reason for the denial, or partial denial, and the fiscal year to which it pertains.

To ensure claimants are properly notified, an assessor may use the BOE-recommended finding sheet, BOE-267-F, which contains the statutorily required language regarding refunds to inform the claimant of the process for contesting denials; however, any other "county-developed" notification letter is acceptable, provided the refund language is included. The required language states that the claimant may seek a refund of property taxes paid by filing a claim for refund with the county board of supervisors, and that if the claim for refund is denied, the claimant may file a refund action in superior court. If the claimant is notified via phone, or sent a *Notice of Correction to the Roll* or *Notice of Change in Exemption* or other letter that does not have the statutorily required refund information and claimant's recourse after denial of the exemption, complete information has not been provided.

If a finding sheet is not issued when the property, or a portion of it, is denied exemption, or if a finding sheet is issued that does not include the required statutory language or the fiscal year pertaining to the denial, the assessor is not providing proper notification to the claimant as required by statute.

Prorate the Exemption

Prorate the exemption as of the date of acquisition.

Reference: Section 271

The Welfare Exemption applies as of the date of acquisition. In addition to cancelling the supplemental tax bill(s) generated as a result of the acquisition or completed new construction, the exemption must also be applied to the regular roll on a prorated basis. In such cases, a roll correction shall be made resulting in a refund or a cancellation of taxes. There are two situations where proration of the exemption applies;

- A qualifying existing organization acquires property after lien date and is used for exempt purposes within 180 days after acquisition. The exemption applies as of the date of purchase.

- An organization that came into existence after lien date and acquires property for exempt use within 180 days after acquisition. The assessor must prorate the exemption and cancel taxes from the regular roll(s) by way of a roll correction and apply the exemption to any positive supplemental rolls.

Applying the exemption for the entire fiscal year when the property was acquired after the lien date, and is therefore only eligible for exemption for a portion of the year, would generate a larger refund than allowed. Conversely, waiting to apply the exemption beginning with the next fiscal year would deny the claimant a portion of the current year eligible for exemption.

Example:

- Property acquired on October 16, 2013
- Qualifying organization files a proper claim for exemption within 90 days of purchase
- Assessed value: $1,000,000
- Exempt value: $750,000 (partial exemption due to portion leased to a for-profit company).

Month	Days Owned	Month	Days Owned
October	16	March	31
November	30	April	30
December	31	May	31
January	31	June	30
February	28		
		Total	258 days

258 days / 365 days = 71% x $750,000 = $532,500 eligible exemption on the regular roll.

Low-Income Housing – Rental Units

Low-Income Household and Elderly/Handicapped Rental Units.

Preprint the maximum income allowed on the supplemental affidavit claim forms.

Property owned by qualifying organizations and used for moderate-income or low-income rental housing units in accordance with sections 214(f) and (g) are eligible for Welfare Exemption only if the household income levels of the tenants do not exceed specified scheduled income limits that are set forth in an annual Letters To Assessors (LTA). To ensure only the units meeting the income requirements are granted the exemption, the assessor should preprint the income information on each of the supplemental affidavits prior to sending it to claimants. The LTA is typically issued in August, which allows sufficient time for counties to preprint the forms.

When the income levels are not preprinted, there is a risk that claimants may not know how to obtain the information or may use incorrect income levels for their claim filing. Because the LTA provides the income levels for both low-income housing and for elderly or handicapped housing,[9] claimants could inadvertently use the wrong schedule. Using inaccurate income levels may result in exemption being granted on portions of the property not eligible for the exemption.

Require claimants to submit all appropriate documents with a low-income housing claim.

Reference: Section 254; Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions,* October 2004, page 70

The BOE has the authority to require certain documents to be submitted to the assessor annually before the Welfare Exemption may be granted. Claimants filing for the first time must provide:

(1) Claim Form BOE-267

(2) One of the following supplemental affidavits:

- BOE-267-L, *Welfare Exemption Supplemental Affidavit, Housing—Lower-Income Households,* when a nonprofit organization owns and operates low-income housing property

- BOE-267-L1, *Welfare Exemption Supplemental Affidavit, Low-Income Housing Property of Limited Partnership,* when a limited partnership owns low-income housing but has a qualifying nonprofit organization as the managing general partner.

- BOE-267-H, *Welfare Exemption Supplemental Affidavit, Housing—Elderly or Handicapped Families,* when a nonprofit organization owns and operates housing for the elderly and handicapped families (limited partnerships do not qualify for exemption under this use)

(3) Copy of the regulatory agreement, deed restriction, or other legal document which describes the restrictions of the property's use to low-income tenants.

[9] The income limits for Elderly/Handicapped households are based on Moderate Income limits, which are considerably higher than the income limits for Lower Income households. For 2015 levels and a more in depth description of the qualifying requirements for these types of housing, see LTA 2014/035.

(4) A copy of the Organizational Clearance Certificate for:

   - Nonprofit organization when filing a 267-L or 267-H
   - Nonprofit managing general partner when filing a 267-L1

(5) A copy of the limited partnership's Supplemental Clearance Certificate when filing a 267-L1.

If an assessor does not have the all information required from the supplemental affidavits and other required documents, portions of the property ineligible for the Welfare Exemption may be improperly granted. Additionally, the correct supplemental affidavit must be used as the claimant must self-certify that the statutory and regulatory requirements set forth in the affidavits have been met.

Low Income Housing - Builders

Do not require an annual filing for nonprofit corporations that build or rehabilitate residences for sale at cost to low income families.

Reference: **Sections 214.15 and 254.5(d)**

The Welfare Exemption is eligible for property owned and operated by a nonprofit corporation whose primary purpose is to build and rehabilitate single- or multi-family residences for sale at cost to low-income families, with zero interest rate loan financing.[10] Unlike the general requirements for the Welfare Exemption, vacant parcels held in the name of such builders for future construction are eligible for exemption; no construction need be commenced.

When there has been no change in title to the property from the prior year on these types of properties, annual filing is not required to receive the full exemption. However, county assessors must annually mail *Change in Eligibility or Termination Notice*, form BOE-231-AH, to claimants receiving the exemption. The form states that annual filing is not required by the claimant, but requests information on any changes to the property's continued eligibility. If the notice is not returned to the assessor's office, an on-site inspection of the property may be performed.

It should not be considered a waiver of the exemption, nor should a reduction of any of the exemption be imposed due to late filing, if the form BOE-231-AH is not returned by February 15.

[10] Habitat for Humanity currently appears to be the only such type of organization in operation.