

Add Revenue and Taxation Code Section 271.5 to, repeal Section 75.23 of, and amend Section 531.1 of, the Property Tax Law to clarify that property tax exemptions cease as of the date of sale or transfer of the property. (Housekeeping)

Source: Property and Special Taxes Department

Existing Law

Revenue and Taxation Code Section 271 allows for the cancellation or refund of taxes on properties on the regular roll that are acquired by various exempt organizations after the lien date (January 1) but prior to the beginning of the fiscal year (July 1). It allows for a similar cancellation or refund of taxes for organizations that do not come into existence until after the lien date and thereafter acquire properties before the beginning of the fiscal year.

For organizations that acquire properties after the fiscal year begins (on or after July 1), the taxes for that fiscal year are either canceled or refunded in proration to the number of days in the fiscal year that the property was owned by the organization. To receive the cancellation, refund, or proration, an application for the exemption must be filed "on or before the lien date in the calendar year next succeeding the calendar year in which the property was acquired." Basically, this means that for any property acquired between January 2, 2009 and December 31, 2009, an exemption claim for the property must be filed on or before January 1, 2010 to receive the full exemption. However, if an organization does not file a claim within this time period but files an exemption claim afterwards, penalties may apply, with the maximum tax not to exceed \$250.

With respect to the disabled veterans' exemption, Sections 276.2 and 276.3 together provide for the portability of the exemption from one property to another. Section 276.2 allows an individual to file a claim for the exemption for property acquired after the lien date. Section 276.3 provides for the termination of the exemption when an individual sells or otherwise transfers the property to a person ineligible for the exemption. For other exemptions, Section 271 allows an organization to file a claim for refund for property acquired after the lien date.

In the case of a supplemental assessment, Section 75.23 addresses the issue that an exemption does not apply to property as of the date of change in ownership if the transferee does not qualify. Confusion has arisen as Section 75.23 provides for all exemptions, including the provisions of Sections 276.2 and 276.3. Termination of the disabled veterans' exemption in Section 276.3 was added in 2000 into a section following the statute that addresses eligibility for property acquired after the lien date. Section 75.23 was added in 2005 to provide that the exemption does not apply when property is sold and supplemental assessment is issued, but it doesn't expressly provide that the exemption shall be terminated. The current statutes are disjointed resulting in confusion for tax practitioners. The logical sequence would be to place the termination of the exemption statute following the eligibility statute (Section 271).

This Proposal

This bill would add Section 271.5 to the Revenue and Taxation Code to clarify that property tax exemptions cease as of the date of sale or transfer of the property. This section would be added immediately following Section 271, the statute that allows for a property tax exemption to be applied to property acquired after the lien date, which would be consistent with the statutes that provide for the termination of the disabled veterans' exemption. As a result of adding this section, Section 75.23 becomes duplicative and Section 531.1 requires amendment to provide for an escape assessment when the exemption has been erroneously allowed.

Section 271.5 is added to the Revenue and Taxation Code to read:

271.5. (a) In the event that property receiving the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, or welfare exemption is sold or otherwise transferred to an entity that is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer. A new exemption would be available subject to the provisions of Section 271.

(b) Termination of the exemption under this section shall result in an escape assessment of the property pursuant to Section 531.1.

Section 75.23 of the Revenue and Taxation Code is repealed:

~~75.23.—(a) Notwithstanding any other provision of law, in the case of a supplemental assessment on property that has undergone a change in ownership, an exemption that was granted to that property on the current roll or the roll being prepared shall not apply to that property as of the date of the change in ownership if the transferee did not otherwise qualify for that exemption on the date of the change in ownership. This subdivision shall not be construed to preclude a transferee from qualifying, on and after the date of a change in ownership, for an exemption for that property that is otherwise provided by law.~~

~~(b) Subdivision (a) does not apply to property that was granted the homeowners' exemption on the current roll or the roll being prepared.~~

Section 531.1 of the Revenue and Taxation Code is amended to read:

531.1. Upon the termination of an exemption pursuant to Section 271.5 or 276.3, upon receipt of a notice pursuant to Section 284, or upon indication from any audit or other source that an exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the exemption. If an exemption or any portion of an exemption has been terminated or has been incorrectly allowed, an escape assessment in the amount of the exemption, or that portion of the exemption that has been terminated or erroneously allowed, with interest as provided in Section 506, shall be made; except that where the exemption was terminated pursuant to Section 271.5 or 276.3 or where the exemption or a portion of the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that the information was erroneous or incomplete, the penalty provided in Section 504 shall be added to the assessment.