

Issue Paper Number 19-001

Board Meeting
 Other



Assessors' Handbook Section 260, *General Exemptions*

I. Issue

Should the State Board of Equalization (BOE) adopt and authorize publication of the Phase One chapters and appendix of Assessors' Handbook Section 260, *General Exemptions*?

II. Alternative 1 - Staff Recommendation

Staff recommends that the following chapters and appendix of Assessors' Handbook Section 260, *General Exemptions*, be adopted by the BOE. See attached for proposed language.

- Chapter 8 Aircraft for Display Exemption
- Chapter 9 Aircraft of Historical Significance Exemption
- Chapter 10 Works of Art Exemption
- Chapter 11 Exhibition Exemption
- Appendix A Glossary of Terms

III. Other Alternative(s) Considered

Issue Paper Number 19-001

IV. Background

Government Code section 15606, subdivision (c), directs the BOE to prescribe rules and regulations governing county assessors in the performance of their duties, and subdivision (e) provides that the BOE shall issue instructions, such as those set forth in proposed Assessors' Handbook Section 260, *General Exemptions* (AH 260).

Each chapter of AH 260 discusses a different property tax exemption, including qualifications and claim filing requirements. Property tax exemptions that are comprehensively discussed in existing Assessors' Handbook sections¹ will not be included in this new section.

The project has been separated into four phases and the chapters designated for each phase are as follows:

Phase One:

- Chapter 8 Aircraft for Display Exemption
- Chapter 9 Aircraft of Historical Significance Exemption
- Chapter 10 Works of Art Exemption
- Chapter 11 Exhibition Exemption

Phase Two:

- Chapter 4 Free Public Library and Free Museum Exemption
- Chapter 5 College Exemption
- Chapter 6 Public School Exemption
- Chapter 7 Lessors' Exemption

Phase Three:

- Chapter 1 Homeowners' Exemption
- Chapter 2 Disabled Veterans' Exemption
- Chapter 3 Veterans' Exemption

Phase Four:

- Chapter 12 Leased Property Used Exclusively for Low-Income Rental Housing (Section 236 Exemption)
- Chapter 13 Tribal Housing Exemption
- Chapter 14 Low-Value Property Exemption
- Chapter 15 Property Acquired After the Lien Date
- Chapter 16 Filing Dates and Late Filing

V. Discussion

The following is a chronology of the drafting process for Phase One of AH 260:

- **August 1, 2018**

The draft Phase One chapters and appendix of AH 260 were distributed via Letter To Assessors No. 2018/036 and interested parties were invited to submit comments.

¹ Welfare, church, and religious exemptions are found in Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*; vessel exemptions are found in Assessors' Handbook Section 576, *Assessment of Vessels*; business inventory exemption is found in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*; and cemetery exemption is found in Assessors' Handbook Section 265, *Cemetery Exemption*.

FORMAL ISSUE PAPER

- **September 14, 2018**

Deadline for submission of comments from interested parties on the draft chapters and appendix. The comments received included suggested language changes and proposed additions to Chapter 9, *Aircraft of Historical Significance Exemption*, and Chapter 10, *Works of Art Exemption*. All comments received were minor or technical in nature.

- **November 14, 2018**

Final drafts of Chapter 9 and Chapter 10, with proposed changes highlighted, were distributed via Letter To Assessors No. 2018/053, and interested parties were invited to submitted comments on the proposed changes.

- **November 28, 2018**

Deadline for submission of comments from interested parties on the final drafts of Chapter 9 and Chapter 10. No comments were received.

VI. Alternative 1 - Staff Recommendation

Staff recommends that the attached proposed draft Phase One chapters and appendix of AH 260 be adopted and authorized for publication.

A. Description of Alternative 1

Staff recommends that the Board issue guidance that discusses the qualifications and claim filing requirements for the following property tax exemptions:

- Aircraft for Display Exemption
- Aircraft of Historical Significance Exemption
- Works of Art Exemption
- Exhibition Exemption

The proposed Phase One chapters contain comprehensive information regarding these property tax exemptions. Appendix A contains a glossary of terms relevant thus far used in the proposed chapters.

B. Pros of Alternative 1

Adoption of the attached Phase One chapters and appendix of AH 260 will promote uniformity in exemption administration within the county assessors' offices throughout California.

C. Cons of Alternative 1

None.

D. Statutory or Regulatory Change for Alternative 1

None.

E. Operational Impact of Alternative 1

None.

FORMAL ISSUE PAPER

F. Administrative Impact of Alternative 1

1. Cost Impact

Development of sections of the Assessors' Handbook is within the scope of the statutory duties of the County-Assessed Properties Division and will be absorbed by existing staff.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact of Alternative 1

None.

H. Critical Time Frames of Alternative 1

None.

VII. Other Alternatives

A. Description of Alternative

None.

Preparer/Reviewer Information

Prepared by: Property Tax Department, County-Assessed Properties Division

Current as of: January 18, 2019

ASSESSORS' HANDBOOK
SECTION 260

GENERAL EXEMPTIONS

FEBRUARY 2019

CALIFORNIA STATE BOARD OF EQUALIZATION

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FOREWORD

Assessors' Handbook Section 260, *General Exemptions* (AH 260), provides information regarding property tax exemptions that are not comprehensively discussed in other sections of the Assessors' Handbook. The objective of this handbook section is to provide assessor staff and other interested parties an informational resource to assist in understanding the qualifications and claim filing requirements of each exemption; however, it is not possible to address all the unique situations that may arise in determining eligibility for these exemptions.

Of the exemptions discussed in this handbook section, some are authorized by Article XIII, section 3, subdivisions (d), (e), (k), (o), (p), and (q), of the California Constitution, while others are allowed under various statutes in the Revenue and Taxation Code.

Property tax exemptions not discussed in this handbook section are included in other handbook sections: the cemetery exemption is found in Assessors' Handbook Section 265, *Cemetery Exemption*; the welfare, church, religious, and veterans' organization exemptions are found in Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*; the business inventory exemption is found in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*; and vessels exemptions are found in Assessors' Handbook Section 576, *Assessment of Vessels*.

Section 15606, subdivision (c), of the Government Code directs the BOE to prescribe rules and regulations governing assessors in the performance of their duties, and subdivision (f) provides that the BOE shall issue instructions, such as those set forth in this handbook section. While regulations adopted by the BOE are binding as law, Board-adopted handbook sections are advisory only. Nevertheless, courts have held that they may be properly considered as evidence in the adjudicatory process.¹ The citations and law references in this publication were current as of the writing of the handbook section.

The drafting of this handbook section was undertaken by staff of the County-Assessed Properties Division of the Property Taxes Department. BOE staff met with members of the California Assessors' Association, County Counsels' Association of California, and industry representatives to solicit input for this handbook section. The BOE approved this handbook section on_.

Brenda Fleming
Executive Director
California State Board of Equalization

¹ *Coca-Cola Co. v. State Board of Equalization* (1945) 25 Cal.2d 918; *Prudential Ins. Co. v. City and County of San Francisco* (1987) 191 Cal.App.3d 1142; *Hunt-Wesson Foods, Inc. v. County of Alameda* (1974) 41 Cal.App.3d 163.

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1 **CHAPTER 8:** **0800.00**
 2 **AIRCRAFT FOR DISPLAY EXEMPTION**

3 An aircraft that is made available for display in an aerospace museum may qualify for exemption
 4 from property taxation pursuant to Revenue and Taxation Code¹ section 217.1. The claimant must
 5 file for the exemption annually and the aircraft must meet the qualifications for the exemption each
 6 year. Unlike most exemptions, the Aircraft for Display Exemption is not based on the status of the
 7 property as of the lien date; rather it is based on the property's display status during the 12-month
 8 period immediately preceding the lien date.

9 **QUALIFICATIONS** **0801.00**

10 The Aircraft for Display Exemption applies only if the aircraft is available for display in either:

- 11 • A publicly owned aerospace museum; or
 12 • An aerospace museum that is regularly open to the public and operated by a nonprofit
 13 organization that qualifies for exemption pursuant to section 23701d.²

14 In addition, the aircraft, classified as personal property, must meet at least one of following criteria:

- 15 • The aircraft has been restored or maintained, whether currently certified or not for flight
 16 purposes.
 17 • The aircraft has been donated in perpetuity to the aerospace museum.

18 This exemption does not apply to any aircraft loaned to the aerospace museum by any person who
 19 holds aircraft primarily for purposes of sale.³

20 **AVAILABLE FOR DISPLAY TO THE PUBLIC** **0801.05**

21 One of the primary requirements to qualify for the exemption is that the aircraft must have been
 22 *available for public display* in an aerospace museum, whether the museum is publicly owned or
 23 one that is operated by a nonprofit organization, for 90 days or more during the 12-month period
 24 that immediately preceded the lien date for the year that the exemption is claimed.⁴

25 In addition, if the aircraft is displayed in an aerospace museum *operated by a nonprofit*
 26 *organization*, in order to qualify for the exemption, the museum must be *regularly open to the*
 27 *public*. For purposes of this exemption, *regularly open to the public* means that the nonprofit
 28 aerospace museum was open to the public for 20 or more hours per week for 35 or more weeks
 29 during the 12-month period that immediately preceded the lien date for the year for which the

¹ All statutory references are to the Revenue and Taxation Code unless otherwise noted.

² Section 23701d provides state income tax exemption for certain nonprofit organizations.

³ Section 217.1(d).

⁴ Section 217.1(e).

1 exemption is claimed.⁵ However, a publicly owned aerospace museum does not need to meet this
2 *regularly open to the public* requirement.

3 **PROSPECTIVE TREATMENT IN THE INITIAL QUALIFYING YEAR** **0801.10**

4 Provided the required certifications are made, a claimant may qualify for the Aircraft for Display
5 Exemption for the initial year, even if the display requirements were not met, under the following
6 circumstances:

- 7 • When the aircraft was first made available for public display less than 90 days prior to the
8 lien date; or
- 9 • When the museum has been open for less than 35 weeks during the 12-month period
10 immediately preceding the lien date or for less than 20 hours per week during that period.

11 If the aircraft was first made available for public display less than 90 days prior to the lien date,
12 the exemption may still be granted if the claimant certifies in writing that the aircraft will be made
13 available for public display for 90 days or more during the 12-month period commencing with the
14 first day the aircraft is made available for public display. In this situation, it is possible for the
15 same display dates to be used to meet the exemption requirements for both the initial qualifying
16 year and the subsequent year.

17 If the museum has been opened for less than 35 weeks, or for less than 20 hours per week, during
18 the required time period, the exemption may still be granted if the director or other officer of the
19 museum certifies in writing that the museum will be open for not less than 20 hours per week for
20 not less than 35 weeks during the 12-month period beginning with the date the aerospace museum
21 was first opened.⁶

22 ***Example 8-1***

23 An aerospace museum, operated by a qualified nonprofit organization, was *first* opened
24 on June 1, 2017. It is currently open three days per week, Thursday through Saturday,
25 from 9:00 a.m. to 4:00 p.m. A claimant timely files a completed claim form requesting
26 exemption for fiscal year 2018-2019 before February 15, 2018, for a restored F-14
27 airplane that has been continuously on display at the museum since its opening.

28 The assessor reviews the certification from the museum. The aircraft met the 90-day
29 minimum display requirement in 2017 prior to the January 1, 2018 lien date; however,
30 the museum was not open for the required 35-week minimum time period. The claimant
31 obtained a written certification from the director of the aerospace museum that the
32 museum will be open for at least 4 weeks prior to June 1, 2018 (35 weeks minimum
33 minus the 31 weeks the museum was open in 2017) and attaches the written certification
34 to the claim form.

⁵ Section 217.1(f)

⁶ Section 217.1(f).

1 The Aircraft for Display Exemption should be approved by the assessor as meeting the
2 provisions of section 217.1.

3 In the instance of prospective treatment in the initial qualifying year, the assessor should request
4 additional information at a later date to verify compliance. If the claimant certified in the claim
5 form that the aircraft would be made available for display for the required period of time⁷ or that
6 the aerospace museum would be open for the required period of time,⁸ but the aircraft was not
7 made available or the museum was not open as certified, the exemption shall be cancelled, and an
8 escape assessment may be made as provided by section 531.1.⁹

9 **FILING REQUIREMENTS** **0802.00**

10 **CLAIM FORM** **0802.05**

11 The Board-prescribed form BOE-260-A, *Certificate and Affidavit for Exemption of Certain*
12 *Aircraft*, must be used when claiming this exemption. A claimant must provide all information
13 requested on the claim form on an annual basis and certify under penalty of perjury of its
14 accuracy.¹⁰ The assessor may also require other proof of the facts stated on the claim form before
15 allowing the exemption. The bottom section of the claim form, which is to be completed by the
16 director or other officer of the aerospace museum in which the aircraft was displayed, serves as
17 certification that the aircraft was available for public display for the required time period.

18 The number of weeks or hours that the museum was open during the 12-month period preceding
19 the lien date is not verified on the claim form. However, the assessor may request such verification.

20 Each year, the claimant may complete one claim form for exemption for multiple aircraft in the
21 same aerospace museum, listing the following information on an attachment:

- 22 • Make, model, year, and FAA or tail number of each aircraft; and
- 23 • The nature of each aircraft for which the exemption is claimed (restored or maintained
24 aircraft and/or aircraft donated in perpetuity).

25 Similarly, the director or officer of the aerospace museum may list the dates that multiple aircraft
26 were on display on an attachment, but he or she must still sign BOE-260-A, as well as each attached
27 information sheet.

28 **FILING PERIOD** **0802.10**

29 A claim for the exemption must be filed annually with the assessor between the lien date and
30 5:00 p.m. on February 15 to receive 100 percent of the exemption for the ensuing fiscal year. Since

⁷ Section 217.1(e).

⁸ Section 217.1(f).

⁹ Section 217.1(g).

¹⁰ Section 217.1(b).

- 1 there is no late filing provision for the Aircraft for Display Exemption, the exemption is waived
 2 for the current year if the claimant fails to file by February 15.¹¹

Claim Filed:	On or before 5:00 p.m. February 15 of the year for which the exemption is being claimed.	No statute allows for late filing after February 15.
Reference:	Section 217.1(c)	N/A

3

4

APPROPRIATION**0803.00**

- 5 No appropriation is made for the Aircraft for Display Exemption and the state will not reimburse
 6 any local agency for any loss in property tax revenue pursuant to this exemption.

¹¹ Sections 217.1(c), 255, and 260.

1 still be granted. Thus, the claimant(s) may be two spouses or several co-owners, as long as
2 they are shown as the *owner*;³

3 2. The assessee does not use the aircraft for commercial purposes or general transportation;
4 and

5 3. The aircraft is available for display to the public at least 12 days during the 12-month period
6 immediately preceding the lien date for the year for which the exemption is claimed.

7 **AVAILABLE FOR DISPLAY TO THE PUBLIC** **0902.05**

8 One of the primary requirements to qualify for the exemption is that the airplane must be available
9 for display to the public at least 12 days annually.⁴ *Available for display to the public* means actual
10 display or documented willingness to display at:

- 11 • An organized air show;
- 12 • A museum; or
- 13 • A specially designated area set aside for historical aircraft open to the public.

14 The airplane must be displayed in a place where deliberate public viewing can be accommodated.
15 An owner's home site will lack reasonable accommodations for public viewing in most instances.
16 Therefore, an aircraft stored on the owner's private property is not considered on *public display*,
17 even if the storage site is visible from a public highway. Additionally, there is no requirement that
18 the aircraft display site be in California to qualify for this exemption.

19 To qualify as available for display to the public under any other situation not described above, an
20 individual must document the following:

- 21 • The aircraft is displayed in such a manner that the general public may reasonably be
22 assumed to be aware that public viewing is clearly invited; and
- 23 • There are reasonable accommodations to allow public viewing of the aircraft.

24 To qualify as available for display under *any* situation also means that:

- 25 • There must be a reasonable effort to make the general public aware of the display; and
- 26 • There must be reasonable viewing hours (making the aircraft available by appointment
27 only is not a clear invitation for viewing by the general public).

28 There are no specific requirements as to how an individual must advertise or publicize each display
29 in order to qualify for the exemption. For example, using a banner, newspaper, newsletter, flyers,
30 or social media to advertise a display may all be acceptable. The assessor will ultimately determine

³ Letter to Assessors (LTA) No. 2002/90.

⁴ Section 220.5(b)(3).

1 if a reasonable effort has been made to notify the general public of the display on a case by case
2 basis.

3 The number of days that the airplane must have been *available for display to the public* is at least
4 12 days during the 12-month period that immediately preceded the lien date for the year that the
5 exemption is claimed. To meet the display requirement, an aircraft must be displayed, or available
6 for display, for 12 periods, with each period being four or more hours during one 24-hour period.⁵

7 If the aircraft is airworthy, then at least six of the 12 displays of the aircraft must be:

- 8 • Flown, taxied, or otherwise moved to a location other than the normal storage location for
9 display to an organized group of persons, for an announced display to the general public,
10 or for permanent display at a museum.

11 However, if the aircraft is not airworthy and/or the aircraft is being restored, the 12 displays may
12 be any combination of either the previously stated type of displays or:

- 13 • Displayed in the normal storage location to an organized group of persons as part of an
14 announced display to the general public, or during posted daytime viewing periods of four
15 or more hours with public accessibility.

16 As used in this statute, *available for public display* includes instances where an aircraft is formally
17 scheduled for display at a qualifying site and the display is subsequently cancelled (for example,
18 due to rain). That cancelled date would count as a day the aircraft was available for display for
19 purposes of qualifying for the exemption.⁶

20 **PROSPECTIVE TREATMENT IN THE INITIAL QUALIFYING YEAR** **0902.10**

21 A claimant may qualify for the Aircraft of Historical Significance Exemption for the initial year,
22 even if the display requirements were not met, if the aircraft was first made available for public
23 display less than 12 days prior to the lien date (for example, December 22). In order to qualify for
24 the exemption under these circumstances, the claimant indicates on the claim form that the aircraft
25 will be made available for public display at least 12 days during the 12-month period commencing
26 with the first day the property was made available for public display. In this situation, it is possible
27 for the same display dates to be used to meet the exemption requirements for both the initial
28 qualifying year and the subsequent year.

29 **AIRCRAFT USE** **0903.00**

30 The Aircraft of Historical Significance Exemption does not allow the aircraft to be used for
31 *commercial purposes or general transportation*.⁷

⁵ LTA No. 89/84 suggests that the minimum number of hours would be four hours for each display date.

⁶ LTA No. 2002/90.

⁷ Section 220.5(b)(2).

1 COMMERCIAL PURPOSES 0903.05

2 As used in this statute, *commercial purposes* means the conveyance of passengers or goods for
3 any business reason or use of the aircraft for any revenue-producing activity. If an owner is
4 depreciating an aircraft as business property or writing off the expenses related to the aircraft as
5 business expenses, the aircraft is being used for commercial purposes and would not qualify for
6 the exemption.

7 GENERAL TRANSPORTATION 0903.10

8 As used in this statute, *general transportation* means flights of an aircraft from one place to another
9 for the primary purpose of transporting passengers or goods from one location to another. To
10 constitute general transportation, there must be flight from one place to another, rather than flights
11 that originate and end in the same place with no intervening stop, as these types of flights are
12 considered to be recreational flying. However, flights to and from historical aircraft shows or
13 displays with stops or overnight layovers would not constitute general transportation. Recreational
14 flying, maintenance-related flying, and flights necessary to maintain the owner's pilot's certificate
15 would not constitute general transportation, unless the flights are primarily for the purpose of
16 transporting goods or persons to another location.⁸

17 FILING REQUIREMENTS 0904.00

18 CLAIM FORM 0904.05

19 The Board-prescribed BOE-260-B, *Claim for Exemption from Property Taxes of Aircraft of*
20 *Historical Significance*, must be used when claiming this exemption. A claimant must provide all
21 information required and answer all questions contained on the claim form.⁹ The owner of the
22 aircraft must qualify and file for the exemption each year and a separate claim form must be filed
23 for each aircraft if an individual owns multiple potentially qualifying aircraft. Section 259.11
24 provides:

25 The affidavit for the aircraft of historical significance exemption shall show that
26 both the property and the owner meet all the requirements entitling the property to
27 the exemption.

28 In order to qualify for the exemption each year, the claim form must be submitted to the assessor
29 documenting the qualifying displays of the aircraft during the preceding calendar year.¹⁰ The
30 claimant must sign the claim form under penalty of perjury and attach a certificate of attendance
31 from the event coordinator of each event at which the aircraft was displayed to document that the
32 aircraft was actually displayed on the date specified.¹¹ The assessor may require additional proof
33 of information or answers provided on the claim form before allowing the exemption.¹² If at a later

⁸ LTA No. 2002/90.

⁹ Section 220.5(c).

¹⁰ If the aircraft was first made available for display less than 12 days prior to the lien date, see the section *Available for Display to the Public* discussed above.

¹¹ Sections 220.5(c) and 220.5(b)(3).

¹² Section 220.5(c).

1 date it is determined that the owner or aircraft did not meet the exemption qualifications, an escape
2 assessment should be issued with any applicable interest and penalty added to the assessment.¹³

3 **FILING FEE** **0904.10**

4 Unlike other exemptions, the Aircraft of Historical Significance Exemption requires a fee of \$35
5 to be collected by the assessor with the initial claim for the exemption.¹⁴ The \$35 filing fee is
6 payable only once per aircraft per county and is not required with each annual claim form filed
7 thereafter in the same county.

8 An aircraft that has been receiving the exemption in one county and then changes its situs to
9 another county must pay the \$35 fee again to the assessor in the new county when the initial claim
10 form is filed in the new county. However, if an owner removes an aircraft from the taxing
11 jurisdiction of a county and then returns the aircraft at a subsequent lien date to the same county,
12 the fee is not required to be paid again for a subsequent claim form filed for the same aircraft.

13 **FILING PERIOD** **0904.15**

14 A claim for the Aircraft of Historical Significance Exemption must be filed annually with the
15 assessor between the lien date and 5:00 p.m. on February 15 to receive 100 percent of the
16 exemption for the ensuing fiscal year.¹⁵

17 **LATE FILING** **0904.20**

18 If a person claiming the Aircraft of Historical Significance Exemption fails to timely file the claim,
19 but files on or before the following August 1 of the same year, the assessment will be reduced by
20 an amount equal to 80 percent of the reduction that would have been allowed had the claim form
21 been timely filed.¹⁶ No exemption is allowed for any claims filed after August 1, as there are no
22 provisions in the law to allow retroactive filing for a prior year for a new claimant or one that has
23 been receiving the exemption but inadvertently missed a filing.

Claim Filed:	On or before 5:00 p.m. February 15 of the year for which the exemption is being claimed.	After February 15, but on or before August 1 of the same year.
Reference:	Section 255	Section 276.5

24

¹³ Section 531.1.

¹⁴ Section 220.5(e).

¹⁵ Section 255.

¹⁶ Section 276.5.

1 Example 9-1**2 Historical Aircraft Exemption Claim Filing**

3	Assessed Value of Aircraft	\$200,000
4	Property Tax Rate	1%
5	Property Tax	\$2,000

6

7 Timely Filed on or Before February 15

8	Reduction in Assessed Value	\$200,000
9	Taxable Value	\$0
10	Property Tax Payable	\$0

11

12 Filed Late on or Before August 1

13	Reduction in Assessed Value	\$160,000 (\$200,000 x .80)
14	Taxable Value	\$40,000
15	Property Tax Payable	\$400

16

17 Filed Late After August 1

18	Reduction in Assessed Value	\$0
19	Taxable Value	\$200,000
20	Property Tax Payable	\$2,000

21

22 APPROPRIATION 0905.00

23 No appropriation is made for the Aircraft of Historical Significance Exemption and the state will
 24 not reimburse any local agency for any loss in property tax revenue pursuant to this exemption.
 25

1000.00

CHAPTER 10: WORKS OF ART EXEMPTION

Certain works of art that are made available for display in an art gallery or museum may qualify for exemption from property taxation pursuant to Revenue and Taxation Code¹ section 217. The artwork must meet the qualifications for the exemption each year and the claimant must file annually for the exemption. Unlike most exemptions, which are based on the status of the property as of the January 1 lien date, the Works of Art Exemption is based on the property's display status during the 12-month period immediately preceding the lien date.

The Works of Art Exemption applies to artwork that is generally assessable based on its January 1 lien date status, except that it has been loaned to a publicly owned art gallery or museum or to a museum that is regularly open to the public and which is operated by a nonprofit organization that qualifies for exemption pursuant to section 23701d.² Assessable works of art include, but are not limited to, works of art displayed in a for-profit museum or gallery, or those displayed in a business or office as décor.

Works of art owned by a public art gallery, public museum, or a welfare exempt nonprofit organization are not exempt under the Works of Art Exemption, but are exempt under article XIII, sections 3(a), 3(b), or 4(b) of the California Constitution.³ Works of art owned by individuals or trusts in which the beneficiaries are individuals and used for private enjoyment are exempt under article XIII, section 3(m) of the California Constitution as household furnishings.

This exemption does not apply to any works of art loaned by a person who holds artwork primarily for purposes of sale; however, such artwork may be exempt as business inventory.⁴

1001.00

DEFINITION OF WORKS OF ART

The following works of art are eligible for the Works of Art Exemption:⁵

1. Original paintings in oil, mineral, water, vitreous enamel, or other colors, pastels, original mosaics, original drawings, and sketches in pen, ink, pencil, or watercolors, or works of the free fine arts in any other media including applied paper and other materials, manufactured or otherwise, that are used on collages, artists' proof etchings unbound, and engravings and woodcuts unbound, lithographs, or prints made by other hand transfer processes unbound, or original sculptures or statuary.

- *Sculpture* and *statuary* shall include professional productions of sculptors only whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, metal, or other materials, or whether cut, carved, or otherwise wrought by hand from the solid

¹ All statutory references are to the Revenue and Taxation Code unless otherwise noted.

² Section 23701d provides state income tax exemption for certain nonprofit organizations.

³ Property owned by the state or local government and property owned by a nonprofit organization that qualifies for the welfare exemption pursuant to section 214.

⁴ Section 217(d); Property Tax Rule 133.

⁵ Section 217(a).

1 block or mass of marble, stone, alabaster, or from metal, or other materials; or cast in
 2 bronze or other metal or substance, or from wax or plaster, or constructed from any
 3 material or made in any form as the professional productions of sculptors only.

- 4 • *Original* when used to modify the words *sculptures* and *statuary* shall include the
 5 original work or model and the first 10 castings, replicas, or reproductions made from
 6 the sculptor's original work or model with or without a change in scale, regardless of
 7 whether or not the sculptor is alive at the time the castings, replicas, or reproductions
 8 are completed.

- 9 • *Painting, mosaic, drawing, work of the free fine arts, sketch, sculpture, and statuary*
 10 shall not include any articles of utility, articles designed for industrial use, or any
 11 articles that are made wholly or in part by stenciling or any other mechanical process.

- 12 • *Engravings, woodcuts, lithographs, or prints made by other hand transfer*
 13 *processes* shall include only works that are printed by hand from plates, stones or
 14 blocks etched, drawn, or engraved with hand tools, and do not include works that are
 15 printed from plates, stones or blocks etched, drawn or engraved by photochemical or
 16 other mechanical processes.

- 17 2. Original works of the free fine arts that were not described previously in item 1 are subject
 18 to regulations, as the Board of Equalization may prescribe, to prove that the article
 19 represents some school, kind, or medium of the free fine arts. *Original works of the free*
 20 *fine arts* shall not include any article of utility or any article designed for industrial use.

21 **QUALIFICATIONS** **1002.00**

22 The Works of Art Exemption applies only if the artwork is available for display in:

- 23 • A publicly owned art gallery or museum; or
 24 • A museum that is regularly open to the public and that is operated by a nonprofit
 25 organization that qualifies for exemption pursuant to section 23701d.

26 *A publicly owned art gallery or museum* is one that is owned by a city, county, state, or federal
 27 government, or other governmental entity. Unlike nonprofit art galleries and museums, this type
 28 of venue is not required to be regularly open to the public.

29 **AVAILABLE FOR DISPLAY TO THE PUBLIC** **1002.05**

30 One of the primary requirements to qualify for the Works of Art Exemption is that works of art
 31 displayed in a nonprofit art gallery or museum must be available for public display for a period of
 32 90 days during the 12-month period immediately preceding the lien date for the year for which the
 33 exemption is claimed.⁶ *Available for display* requires actual display or documented willingness to
 34 display for a specified period. Viewing by appointment only is insufficient and does not meet this
 35 requirement.

⁶Section 217(e).

1 In order to qualify for the Works of Art Exemption, the artwork must be *available for display to*
 2 *the public* as follows:

- 3 • The artwork must be displayed in such a manner that the general public may reasonably be
 4 assumed to be aware that public viewing is clearly invited;
- 5 • Reasonable accommodations must be made to allow public viewing of the artwork;
- 6 • A reasonable effort must be made to make the general public aware of the display;
- 7 • There must be reasonable viewing hours (making the artwork available by appointment
 8 only is not acceptable); and
- 9 • It is not required that the location of the display be in California.

10 If there is a question as to the days the artwork was displayed or available for display, the assessor
 11 must consider the actual intent of the owner and make a determination on a case-by-case basis as
 12 to whether the display requirements have or have not been met. For example, if an owner entered
 13 into an agreement with an art gallery or museum to have the owner's artwork displayed for at least
 14 90 days, but the museum did not actually have the item out for display to the public for all 90 days
 15 due to space limitation or another reason, the assessor may deem that the display requirements for
 16 the exemption have been met.

17 **REGULARLY OPEN TO THE PUBLIC** **1002.10**

18 Another requirement of this exemption is that the nonprofit art gallery or museum in which the
 19 artwork is displayed must be regularly open to the public. Section 217(f) defines *regularly open*
 20 *to the public* as an art gallery or museum open to the public not less than 20 hours per week for
 21 not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for
 22 which the exemption is claimed. As stated previously, this requirement does not apply to publicly
 23 owned art galleries or museums.

24 **PROSPECTIVE TREATMENT IN THE INITIAL QUALIFYING YEAR** **1002.15**

25 Provided the required certifications are made, a claimant may qualify for the Works of Art
 26 Exemption for the initial year, even if the display requirements were not met, under the following
 27 circumstances:

- 28 • When the artwork was first made available for public display less than 90 days prior to the
 29 lien date; or
- 30 • When the art gallery or museum has been open for less than 35 weeks during the 12-month
 31 period immediately preceding the lien date or for less than 20 hours per week during that
 32 period.

33 If the artwork was first made available for public display less than 90 days prior to the lien date,
 34 the exemption may be granted if the claimant certifies in writing that the artwork will be made
 35 available for public display for at least 90 days during the 12-month period commencing with the

1 first day the artwork was made available for public display. In this situation, it is possible for the
 2 same display dates to be used to meet the exemption requirements for both the initial qualifying
 3 year and the subsequent year.

4 If the art gallery or museum has not been open for the required time frame, the exemption may be
 5 granted if the director or other officer of the museum certifies in writing that the museum will be
 6 open for the required timeframe during the 12-month period beginning with the date the museum
 7 was first opened.⁷

8 In such instances of prospective treatment in the initial qualifying year, the assessor may request
 9 additional information at a later date to verify compliance with exemption requirements. If it was
 10 certified that the work(s) of art would be made available or that the art gallery or museum would
 11 be open for the required timeframe, but the artwork was not made available or the art gallery or
 12 museum was not open as certified, the exemption shall be cancelled and an escape assessment may
 13 be made as provided by section 531.1.⁸

14 **FILING REQUIREMENTS** **1003.00**

15 **CLAIM FORM** **1003.05**

16 The Board-prescribed BOE-260, *Certificate and Affidavit for Exemption of Work of Art*, must be
 17 used when claiming this exemption. A claimant must provide all information requested on the
 18 claim form on an annual basis and certify under penalty of perjury of its accuracy. The assessor
 19 may also require other proof of the facts stated on the claim form before allowing the exemption.⁹
 20 The bottom section of the claim form is to be completed and signed by the director or other officer
 21 of the art gallery or museum in which the artwork is displayed and will serve as certification that
 22 the artwork was available for public display for the required time period.

23 The claimant may complete one claim form for the Works of Art Exemption for multiple works
 24 of art displayed in the same museum, listing the following information on an attachment:

- 25 • The nature of each work of art (such as, original painting, original sculpture, work of the
 26 free fine arts, etc.); and
- 27 • A description of each work of art, and the process by which it was created, in sufficient
 28 detail to identify it.

29 Similarly, the director or officer of the museum may list the dates multiple works of art were on
 30 display on an attachment to the claim form, but the museum personnel must sign each attachment,
 31 as well as the claim form.

⁷ Section 217(f).

⁸ Section 217 (g).

⁹ Section 217(b).

1 FILING PERIOD**1003.10**

2 A claim for the Works of Art Exemption must be filed annually with the assessor between the lien
 3 date and 5:00 p.m. on February 15 to receive 100 percent of the exemption for the ensuing fiscal
 4 year. Since there is no late filing provision for the Works of Art Exemption, the exemption is
 5 waived for the current year if the claimant fails to file by February 15.¹⁰

Claim Filed:	On or before 5:00 p.m. February 15 of the year for which the exemption is being claimed.	No statute allows for late filing after February 15.
Reference:	Section 217(c)	N/A

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APPROPRIATION**1004.00**

8 No appropriation is made for the Works of Art Exemption and the state will not reimburse any
 9 local agency for any loss in property tax revenue pursuant to this exemption.

¹⁰ Sections 217(c), 255, and 260.

1 **CHAPTER 11:** **1100.00**
 2 **EXHIBITION EXEMPTION**

3 Personal property that is brought into the state on a temporary basis for exhibition purposes may
 4 qualify for the Exhibition Exemption pursuant to Revenue and Taxation Code¹ section 213.
 5 Owners must file for the exemption if the property is located in California as of the January 1 lien
 6 date. Property that is brought into the state for exhibition purposes after the lien date, but which is
 7 removed prior to the next succeeding lien date, is not assessable in California; therefore, an
 8 exemption filing is not required.

9 **QUALIFICATIONS** **1101.00**

10 The Exhibition Exemption applies only if *all* of the following conditions are satisfied:

- 11 • The property is brought into California exclusively for use or exhibition at any exposition,
 12 fair, carnival, or public exhibit of literary, scientific, educational, religious, or artistic works
 13 in California and is used only for these purposes while in this state;
- 14 • The property is intended to be removed from California following its use or exhibition
 15 here; and
- 16 • The property is subject to taxation in another state or country while in California, and all
 17 taxes due in the other state or country have been paid when the exemption is claimed.

18 There are no requirements as to who must own the property in order for it to qualify for the
 19 exemption. The property may be owned by an individual or an organization, whether nonprofit or
 20 for-profit.

21 **FILING REQUIREMENTS** **1102.00**

22 **CLAIM FORM** **1102.05**

23 The Board-prescribed BOE-270-AH, *Exhibition Exemption Claim From Property Taxes*, must be
 24 used when claiming this exemption. On an annual basis, a claimant must provide all information
 25 required, answer all questions contained in the claim form, and certify under penalty of perjury the
 26 requirements of the exemption have been met.² In addition, the assessor may request
 27 documentation from the claimant to verify that all taxes due on the property in another state or
 28 county have been paid.

29 **FILING PERIOD** **1102.10**

30 A claim for the Exhibition Exemption must be filed annually with the assessor between the January
 31 1 lien date and 5:00 p.m. on February 15 to receive the full exemption for the ensuing fiscal year.

¹ All statutory references are to the Revenue and Taxation Code unless otherwise noted.

² Section 259.

1 LATE FILING**1102.15**

2 If a claim for the Exhibition Exemption is filed after February 15, but on or before the next
 3 succeeding lien date, 90 percent of the exemption may be allowed, subject to a maximum of \$250
 4 for tax, penalty, and interest. If the claim is filed after the next succeeding lien date, 85 percent of
 5 the exemption may be allowed, subject to the same \$250 maximum.³

Claim Filed:	On or before 5:00 p.m. February 15 of the year for which the exemption is being claimed.	After February 15 but on or before January 1 of the next year.	Any time after January 1 of the next year.
Reference:	Section 255(a)	Section 270(a)(1)	Section 270(a)(2)

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7

APPROPRIATION**1103.00**

8 No appropriation is made for the Exhibition Exemption and the state will not reimburse any local
 9 agency for any loss in property tax revenue pursuant to this exemption.

10

³ Section 270.

APPENDIX A: GLOSSARY OF TERMS**1700.00**

Aircraft	Also referred to as <i>general aircraft</i> . Any contrivance used or designed for the navigation of or for flight in the air which has been flown at least once, other than a parachute or similar emergency safety device, a rocket or missile, or a certificated aircraft or scheduled air taxi.
Assessed Value	The taxable value of a property against which the tax rate is applied.
Assessee	Person who owns, claims, possesses, or controls the property on the lien date.
Lien Date	All taxable property (both state and locally assessed) is assessed annually for property tax purposes as of 12:01 a.m. on January 1, which is called the lien date. It is referred to as the lien date because on this date the taxes become a lien against all real property assessed on the secured roll.
Nonprofit	An organization that is not seeking or producing a profit and its net earnings do not benefit any private person.
Personal Property	All property except real property.
Property	Property includes all matters and things—real, personal, and mixed—that are capable of private ownership [section 103].
Taxable Value	For real property subject to article XIII A of the California Constitution (Proposition 13), the base year value adjusted for any given lien date as required by law or the full cash value for the same date, whichever is less, as set forth in section 51(a). For personal property, the full cash value (market value) on the lien date each year.