



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
916 274-3350 • FAX 916 285-0134
www.boe.ca.gov

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December 7, 2011

KRISTINE CAZADD
Executive Director

No. 2011/044

TO COUNTY ASSESSORS:

COMMUNITY BENEFIT TEST FOR THE WELFARE EXEMPTION

This letter clarifies LTA 2008/034's use of the term "primarily" in the administration and application of the community benefit test to a charitable organization's claimed charitable activities for purposes of the welfare exemption.

Section 214, subdivision (a), which implements California Constitution article XIII, section 4, subdivision (b), provides that "[p]roperty used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations, limited liability companies, or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation" if certain requirements are met. Where charitable purposes are involved, one such requirement is that the charitable activities must benefit "the community as a whole or an unascertainable and indefinite portion thereof."¹ This requirement is commonly known as the "community benefit test."

Review of the Community Benefit Test Policy

In several Board meetings in 2007 and 2008, the elected Members of the Board heard discussions regarding the feasibility of expanding the community benefit test to include nonprofit organizations that own property in California but whose charitable activities solely benefit persons outside of California. At the March 19, 2008, meeting, the Board voted to retain the staff's historic administrative interpretation of the community benefit test, which requires that an organization's claimed charitable activities must be found to benefit persons within the geographical boundaries of the State of California. At the September 20, 2011, Board meeting, staff provided the Board with a description of staff's administration of the community benefit test. Staff clarified that, when determining whether the community benefit test is met, it does not apply a strict mathematical test whereby greater than 50 percent (or any other percentage) of a nonprofit's charitable activities must benefit persons within the geographical boundaries of the State of California. Staff was directed to issue guidance clarifying the required California benefit that would meet the community benefit test.

¹ *Stockton Civic Theatre v. Board of Supervisors* (1967) 66 Cal.2d 13, 22.

Required California Benefit

Because the granting or denial of an application for an Organizational Clearance Certificate is heavily fact dependent, staff carefully considers all relevant facts and circumstances when analyzing whether the community benefit test is met. Each nonprofit organization is unique and performs its charitable mission in unique ways. In many instances it is difficult, if not impossible, to determine what exact benefits should be measured in determining whether the California community is served, and thus, to what extent the California community is benefitted. Many activities, in fact, such as scientific research, are not limited to a particular location, nor are the benefits that accrue limited to a particular place or group of people. Thus, staff does not attempt to quantify the benefit conferred by a particular charitable activity unless the charitable activity easily lends itself to quantification, as, for example, with organizations whose sole activities are making grants.

In no event, however, is the community benefit test applied on a strict mathematical basis with a threshold over which the test is met (e.g., 50 percent or more of the activities must benefit the California community) and under which the test fails. Even in situations where quantification of charitable activities benefitting the California community is possible, all facts and circumstances are considered to determine whether the test is met even in situations where the California community receives only a small percentage of benefit from the charitable activities. As currently applied by staff, the community benefit test is met if all of the facts and circumstances demonstrate that the charitable activities performed by the nonprofit organization confer some "meaningful," "important," or "significant" benefit to persons within the geographic boundaries of the State of California.

All documents regarding this issue are posted to the Board's website at <http://www.boe.ca.gov/proptaxes/otherprojects08.htm>. If you have questions regarding this issue, you may contact Mrs. Ladeena Ford at 916-274-3350 or at Ladeena.Ford@boe.ca.gov.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

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