

WELFARE EXEMPTION AUTHORITATIVE CITATIONS

The following provides the authoritative citations for the welfare exemptions portion of the Exemptions Survey Topic. In general, citations include Constitutional provisions, sections of the Revenue and Taxation Code, other applicable statutes, court cases, Property Tax Rules, *Assessors' Handbook Sections*, Letters To Assessors, and legal annotations pertaining to the topic.

CITATION	DESCRIPTION
California Constitution	
Article XIII, §4(b)	<i>Welfare (and Religious)</i> . Property used exclusively for religious, hospital, or charitable purposes and owned by corporations or other entities (1) that are organized and operated for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures benefit of any private shareholder or individual, is exempt.
Article XIII, §5	<i>Welfare (and Church)</i> . Exemptions granted or authorized by §3(f) apply to buildings under construction, land required for their convenient use, and equipment in them if the intended use would qualify the property for exemption.
Revenue and Taxation Code	
§75.21	Provides for application of the exemption to the supplemental assessment.
§75.23	Effective January, 1, 2012, SB 947 repealed this section. <i>Except for the homeowners' exemption</i> , an existing exemption may not be applied against a supplemental assessment due to change in ownership unless the transferee qualifies in his/her own right for the exemption as of the date of change in ownership.
§75.24	If a section 501(c)(3) organization establishes its status as a qualified organization with the BOE within 180 days of a change in ownership or completion of new construction, the property shall be eligible for exemption from supplemental assessment.
§214	<i>Welfare</i> . Property 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. Both the owner and any other user of the property must have a valid organizational clearance certificate issued by the BOE. A hospital is reputedly presumed to be organized and operated for profit if, in the immediately preceding fiscal year, operating revenues, as defined, exceeded operating expenses, as defined, by more than 10 percent. This is declaratory of

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	existing law.
§214(g)	<p>Provides that the welfare exemption is available to property owned and operated by qualifying organizations and used exclusively for rental housing occupied by lower-income households.</p> <p>Specifies that the partial exemption percentage calculation use a unit method. Defines "related facilities" to explicitly include any manager's units and common area spaces that are included within the physical boundaries of the rental housing development, other than nonexempt commercial space. Defines "units serving lower income households" to include units that are vacant when determining the occupancy percentage, provided that the project operator is holding the units for rental to low-income tenants only.</p>
§214.01	<p><i>Welfare.</i> The organization's formative document (articles of incorporation, trust, etc.) must contain a clause irrevocably dedicating its property to religious, charitable, scientific, or hospital purposes. If the BOE finds the document lacking, it shall notify the claimant, who is allowed until the next lien date to amend its document and receive an organizational clearance certificate.</p>
§214.02	<p><i>Welfare.</i> Until January 1, 2022, property used exclusively for animal or plant preservation, biotic communities, geographical or geological formations of scientific or educational interest, or recreational open-space lands, open to the public subject to reasonable restrictions, and owned and operated by a qualifying scientific or charitable fund, foundation, limited liability company, or corporation, qualifies for the welfare exemption. Beginning with the 2013-14 fiscal year, in determining whether property is used for exempt activity, consideration is not to be given to the use of activities resulting from in direct or in-kind revenues such as grazing leases, hunting and camping permits, caretaker rents, or admission fees, provided that the activities further the conservation objectives of the property.</p>
§214.06	<p><i>Welfare.</i> On or after January 1, 2015, a local government shall not enter into a payment in lieu of taxes (PILOT) agreement with a property owner of a low-income housing project. Any PILOT agreement entered into in violation of this subdivision shall be void and unenforceable.</p>
§214.08	<p><i>Welfare.</i> Any ad valorem tax, interest, or penalty levied between 1/1/12 and 1/1/15 as a result of a PILOT agreement shall be cancelled or refunded. Prohibits an escape or supplemental assessment from being levied on or after 1/1/15 on the basis that payments made under a PILOT agreement were used in a manner incompatible with the certification requirement.</p>
§214.1	<p><i>Welfare.</i> Provides the welfare exemption for facilities in the course of construction.</p>

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§214.2	<i>Welfare.</i> Provides that facilities in the course of construction eligible for the welfare exemption include the demolition and razing of a building.
§214.4	<i>Welfare and Religious.</i> For purposes of §207 and §214, a school of "less than collegiate grade" is one attendance at which exempts a student from attendance at a public full-time elementary or secondary day school under §48222 of the Education Code, or one at which a majority of the students are excused from such attendance under §48221 or §48226 of the same Code.
§214.5	<i>Welfare.</i> Schools of collegiate or less than collegiate or both, owned and operated by religious, hospital, or charitable funds, foundations, limited liability companies or corporations qualifying under §214, are within the scope of the welfare exemption. This section shall not be construed to enlarge the college exemption.
§214.6	<p><i>Welfare and Religious.</i> Property leased by a welfare exempt organization to a public school district, when used in a joint manner, is exempt. The non-profit organization need only attach the current lease agreement to the annual filing of the claim for the welfare exemption.</p> <ul style="list-style-type: none"> • Income must not exceed expenses. • The leased property must be within the boundaries of the political subdivision.
§214.8	<i>Welfare and Veterans' Organization.</i> The welfare or veterans' organization exemption shall not be granted to an organization, including a limited liability company, unless it qualifies under specific sections the Revenue and Taxation Code and Internal Revenue Code. In addition, the organization must also file with the assessor a valid organizational clearance certificate issued by the BOE.
§214.9	<i>Welfare.</i> Provides that the hospital purpose of the welfare exemption includes outpatient clinics (psychiatric services for emotionally disturbed children, or nonprofit multispecialty clinic).
§214.15	<i>Welfare.</i> Provides the welfare exemption to property owned and operated by a nonprofit corporation that is organized and operated for the specific and primarily purpose of building and rehabilitating single or multifamily residences for sale at cost to low-income family, with financing in the form of a zero interest rate loan (i.e., habitat for humanity).
214.16	A special section qualifying for the welfare exemption certain low-income rental housing during the period January 2, 2002 – January 1, 2009, as specified in section 214(g)(1)(D): previously owned by CalTrans, not owned by a limited partnership with a nonprofit managing general partner, etc.

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§215	<i>Veterans' Organization.</i> All personal property owned by an eligible veteran organization, used exclusively for the purposes of such organization, is exempt from taxation.
§215.1	<i>Veterans' Organization.</i> All buildings owned by an eligible veteran organization, and the land required for the convenient use and occupation of the building(s), used exclusively for charitable purposes, is exempt from taxation. An organization seeking the veterans' organization exemption must file a valid OCC with the assessor.
§254.6	<i>Welfare and Veterans' Organization.</i> To claim the welfare exemption, an organization must file an application for an OCC with the BOE. BOE staff will review the claim in light of specific criteria and notify the claimant of the determination. If denied, the claimant may file an appeal with BOE (must be in writing within 60 days of the date of mailing of the notice of ineligibility). BOE staff may revoke an OCC if the organization no longer meets the requirements of §214. A revocation may be appealed to the BOE.
§255	<i>Affidavits for exemption, except homeowners',</i> shall be filed with the assessor between the January 1 lien date and 5:00 p.m. on February 15. If the claimant is found ineligible for the church exemption or religious exemption, the organization may file a claim for the welfare exemption within 15 days from the date of notification by the assessor.
§259.5	<i>Welfare.</i> The claim for welfare exemption shall show that the use requirements are met and that the claimant has a valid OCC.
§259.7	<i>Veterans' Organization.</i> The claim for the veterans' organization exemption shall show that the use requirements are met and that the claimant has a valid OCC.
§261	<i>Welfare.</i> Provides that a prerequisite to granting the welfare exemption on real property, the interest of the claimant must be of record on the lien date in the office of the recorder of the county where the property is located.
§270	<i>Church, Religious, Welfare, Veterans' Organization.</i> If a claim is filed late (after February 15), a percentage of the assessment will be cancelled as follows: <ul style="list-style-type: none"> • 90 percent if filed by next January 1; and, • 85 percent if filed after next January 1.
§271	<i>Church, Religious, Welfare, Veterans' Organization.</i> Taxes and penalties shall be canceled or refunded provided that the claim for exemption is filed within 90 days from the first day of the month following the month in which the property was acquired or by February 15 of the following calendar year, whichever is earlier. Only 85 percent cancellation is allowed if a claim for exemption is filed after the

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	<p>appropriate date, to a maximum penalty of \$250.</p> <p>Full cancellation applies to acquisitions by qualified organizations between lien date and June 30 and acquisitions between lien date and June 30 by qualified organizations not in existence on the lien date. Pro rata cancellation applies to acquisitions after June 30.</p>
§271.5	Provides that property tax exemptions cease as of the date of sale or transfer of the property. Applies to property sold or transferred after January 1, 2012.
§469	Provides in pertinent part that only locally assessable trade fixtures and business tangible personal property of a taxpayer entity that is not fully exempt from property taxation are subject to the mandatory audit requirement.
§531.1	Allows the assessor to enroll an escape assessment when the exemption has been erroneously allowed on a property that is not eligible. Applies to property sold or transferred after January 1, 2012.
Property Tax Rules	
Rule 136	<i>Welfare Exemption.</i> Limited liability companies as qualifying organizations for the welfare exemption.
Rule 137	<i>Welfare Exemption.</i> Staff housing owned by religious, charitable, scientific, or hospital organizations may be eligible for the welfare exemption to the extent that it is institutionally necessary to accomplish the exempt purposes of the organization. It is the organization's use of the property, not the occupant's use that is determinative.
Rule 140	<i>Welfare Exemption.</i> Defines and makes specific the terms "regulatory agreement," "deed restriction," "federal low-income tax credits," "government financing," "lower income households," and "other legal document" as used in Revenue and Taxation Code section 214, subdivision (g) providing for the welfare exemption for low-income housing properties.
Rule 140.1	<i>Welfare Exemption.</i> Defines the term "managing general partner" of a limited partnership and implements and makes specific the requirements that the managing general partner must meet in order for the low-income housing property, owned and operated by the limited partnership, to qualify for the welfare exemption.
Rule 140.2	<i>Welfare Exemption.</i> Implements and makes specific the requirements for a supplemental clearance certificate that the limited partnership, in which the managing general partner is a qualifying nonprofit organization, must meet for each low-income housing property for which it intends to claim the welfare exemption under section 214, subdivision (g).

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Rule 143	<i>Welfare Exemption.</i> Specifies the legal requirements for the irrevocable dedication and dissolution clauses required in articles of incorporation submitted to the BOE by organizations seeking an <i>Organizational Clearance Certificate</i> .
Rules for Tax Appeals	
§5333 – 5333.6	Petitions of Denial of Claim for Organizational Clearance Certificate
Assessors' Handbook	
AH 267, Welfare, Church, and Religious Exemptions (Oct. 2004)	<i>Church, Religious and Welfare Exemption.</i> Part one deals with all aspects of the welfare exemption. Part II deals with the church and religious exemptions (including parking areas).
BOE Publications	
Publication 149, Property Tax Welfare Exemption (May 2012)	A guide to the requirements for the welfare exemption, including the Board's role in co-administering the exemption with county assessors.
Letters To Assessors	
82/06	<i>Welfare.</i> Religious seminaries may qualify for either the college or the welfare exemption, depending upon the nature of the school and its operations.
86/45	<i>Welfare.</i> Property owned by a college and used by a religious, scientific, charitable, or hospital organization for its exempt purposes may receive the welfare exemption, provided that both the college and the using organizations possess proper credentials. However, property owned by a welfare exempt organization and used by a college for educational purposes of collegiate grade is ineligible for the welfare exemption.

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92/04	<p><i>Welfare.</i> To receive the welfare exemption as a museum, the property claimed to be exempt must be used primarily as a museum. A museum is a place specifically designated for the display and storage of artifacts and objects of art open to the public during normal operating hours, and the public is aware of this use. The display of the objects is more important than the storage function. (<i>Fellowship of Friends v. County of Yuba</i> (1957) 235 Cal.App.3d 673).</p>
2003/070	<p><i>Welfare and Veterans' Organization.</i> Explains the effects of SB 1062 (Chapter 471, Stats. 2003) upon the administration of the welfare and veterans' organization exemptions. The BOE will now determine whether <i>the organization</i> is eligible for exemption, while the county assessor will determine whether <i>the use of the property</i> is eligible for the exemption.</p> <p>The BOE will issue <i>Organizational Clearance Certificates (OCC)</i>, notify organizations (and assessors) of ineligibility or revocation of such certificates, periodically verify organizations' continuing eligibility for exemption. If a certificate is denied or revoked, a BOE hearing procedure is established for claimants to appeal the denial.</p> <p>County assessors will (without review by BOE staff) review claims (filed only with the assessor's office) to determine if the property use qualifies for exemption, and must notify a claimant in writing of ineligibility, if the property's use does not qualify, and of the administrative remedy (claim for refund and action in superior court). <i>The assessor may not, however, grant a claim unless the organization holds a valid OCC issued by the BOE.</i></p>
2003/095	<p><i>Welfare.</i> Explains revised BOE duties with regard to the welfare exemption for low-income rental housing owned and operated by limited partnerships. The BOE will determine whether the managing general partner (1) is a qualifying nonprofit organization and (2) has sufficient management authority and duties to qualify the property for exemption. If the BOE finds that the organization does not qualify and denies its claim for a <i>Supplemental Clearance Certificate for Managing General Partner</i> (form BOE-277-L1), it must notify the claimant in writing and provide a hearing procedure for appeal of the denial.</p> <p><i>Note: beginning in 2009, only form BOE-267-L need be filed by limited partnerships.</i></p>

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2004/058	<i>Welfare.</i> Revised claim forms for the welfare inspection. Includes first-filing form, annual filing, field inspection report, supplemental affidavit for limited partnerships, veterans' organization claim and field inspection report, claim for organizational clearance certificate (OCC), supplemental clearance certificate for managing general partner, periodic filing for OCC, and claim for OCC-veterans' organization.
2004/085	<i>Welfare.</i> Provided basic information on the adoption of Rule 136 and distributed a copy of the rule. All LTA's are available on the Board's website and may be accessed from the Property Tax page by selecting "Letters to Assessors."
2005/019	<i>Welfare.</i> Provided the requirements for the welfare exemption for nonprofit limited liability companies and distributed revised claim forms. <i>Note: these claim forms are now outdated and have not been included as attachments to this LTA in the Authoritative Citations.</i>
2008/034	<i>Welfare.</i> As directed by the elected Board in March 2008, the BOE exemptions staff will retain its historic interpretation of the <i>community benefit test</i> for the welfare exemption and will continue to require that an organization's claimed charitable activities must be found to primarily benefit persons within the geographical boundaries of the State of California.
2008/054	If a portion of a structure or site receiving the church, religious, or welfare exemption is used to mount a cell tower for commercial purposes, that portion becomes taxable. The assessor must apply a valuation methodology that satisfactorily values the taxable portion of structure and/or land.
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2009/55	Clarifies that existing law allows the welfare exemption on property owned by a nonprofit organization that is leased to a public school, community college, state college, or state university, including the University of California, when the property is used for educational purposes. The non-profit organization must attach a copy of the lease agreement when annually filing for the welfare exemption. The following conditions of the lease must also be met: <ul style="list-style-type: none"> • Income does not exceed expenses. • The leased property is within the boundaries of the political subdivision.
2010/057	Allows the destruction of original exemption claims, after preservation in a medium that captures the documents and can be later retrieved, as set forth in

	R & T §465.
2011/044	<i>Welfare.</i> 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.
2012/026	Effective January 1, 2012, SB 947 adds section 271.5 to repeal section 75.23 and amends section 531.1 to clarify that certain property tax exemptions cease as of the date of sale or transfer of the property. Applies to college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, and welfare exemptions.
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2014/034	<i>Welfare.</i> 2015-16 low-income limits for leased section 236 and Indian tribal rental housing.
2014/035	<i>Welfare.</i> 2015-16 low-income limits for low-income rental housing and moderate income limits for elderly or handicapped rental housing.
2014/058	<i>Welfare.</i> Provides a listing of the more frequent recommendations discovered by the assessment practices surveys completed during the past few years. Offers guidance on processing procedures related to these recommendations.
2015/018	Guidelines to assist county assessors' staff in applying the welfare exemption to low-income housing property when the rental housing does not exclusively serve lower income households.
2015/043	<i>Welfare.</i> 2016-17 low-income limits for leased section 237 and Indian tribal rental housing.
2015/044	<i>Welfare.</i> 2016-17 low-income limits for low-income rental housing and moderate income limits for elderly or handicapped rental housing.
2015/047	<i>Welfare.</i> 2016-17 income levels for leased property used exclusively for low-income rental housing.
Annotations	
870.0001	<i>Veterans' Organization.</i> Rooms used for social club purposes are not eligible for the veterans' organization exemption.
880.0002 - 880.0790	<i>Welfare.</i> BOE staff guidance on various aspects of the welfare exemption.