

Exemptions

Church and Religious Exemptions

Conduct field inspections on all new claims filed for church and religious exemptions

[Section 256](#) provides that the affidavit for a church exemption shall show that the building and equipment are used solely for religious worship, while [section 257](#) provides that any person claiming the religious exemption shall submit to the assessor an affidavit that shall show that the building, equipment, and land are used exclusively for religious purposes. In order to verify the use of property as reported by claimants on church or religious claims, the assessor should conduct a field inspection on property on which an exemption is claimed for the first time. A field inspection is essential to ensure that the property use meets exemption requirements and to determine what portion of the property is eligible for exemption. The assessor's failure to conduct field inspections on all church and religious exemption claims may result in an improper exemption of property being granted.

Ensure that only qualifying properties are granted the church exemption.

The church exemption is available only for property used exclusively for religious worship and reasonably necessary parking for those attending worship services. [Section 206](#) provides for the church exemption on property used exclusively for worship purposes and [section 206.1](#) provides for the exemption of church parking. Property uses such as a parsonage, caretaker home, religious schools, day care center, or vacant land, for example, are uses that are outside the scope of these statutes and are non-qualifying uses.

Grant the church exemption only if the claimant files a claim each year.

[Section 255](#) requires an annual affidavit for the church exemption to be filed between January 1 and 5 p.m. on February 15, with late-filing provisions if filed after that time. [Section 260](#) states that if a person fails to follow the required filing procedures, the exemption is waived. Granting the church exemption without an annual filing by the claimant is contrary to statutes and does not provide the assessor with information on current usage of the property to determine continuing eligibility for the exemption.

Grant the religious exemption only for property used exclusively for qualifying purposes.

[Section 207](#) states that the religious exemption is for property owned and operated by a church and used for religious worship. Additionally, the questionnaire portion of the religious exemption claim form instructs the claimant to file either a church or welfare exemption claim if the property is not owned by the religious organization. Real and personal property used for worship, but not owned by the religious organization, may be eligible for a church exemption, not a religious exemption.

Welfare Exemption

Grant the welfare exemption only to properties with qualifying exempt uses.

[Section 214\(a\)](#) requires that property receiving the welfare exemption must be used exclusively for exempt purposes. Use of the property for class reunions, weddings, and business retreats is a commercial use and is in competition with for-profit entities. Consequently, only those areas of the property used solely for exempt activity are eligible for the exemption. Use of the property by non-exempt individuals or groups, or for non-qualifying activities, disqualifies the property from exemption. It is essential for exemptions staff to thoroughly review both first filings and annual claims for disqualifying use. By allowing a non-qualifying use of otherwise exempt property, the assessor is not complying with exemption statutes.

Properly notify claimants when a property is denied the welfare exemption.

[Section 254.5\(c\)\(2\)](#) provides that if the assessor finds the claimant's property ineligible for the welfare exemption, the assessor must notify the claimant in writing of that finding. The assessor must also provide notification that the claimant may seek a refund of property taxes by filing a claim for refund with the county board of supervisors. If the claim for refund is denied, the organization may file a refund action in superior court. By not issuing a finding sheet notifying claimants when a property is denied exemption, or by issuing a finding sheet that does not include the fiscal year or required statutory language, the assessor is not providing proper notification to the claimant.

Properly apply late-filing provisions for welfare exemption claims that are not timely filed.

[Section 255\(a\)](#) provides that annual claims for the welfare exemption must be filed with the assessor between January 1 and 5 p.m. on February 15. [Section 270](#) states that 90 percent of any tax, penalty, or interest will be cancelled or refunded if the claim is filed on or before January 1 of the next calendar year. If a claim is filed with the assessor after January 1 of the next calendar year, then 85 percent of any tax, penalty, or interest shall be cancelled or refunded. However, [section 270\(b\)](#) provides that the total amount of tax, penalty, and interest may not exceed \$250.

[Section 271\(a\)](#) provides that a welfare exemption claim filed on property acquired after the lien date is considered filed timely if 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 occurs earlier. If the claimant does not file the application within the prescribed time period, but files an exemption claim later, then 85 percent of any tax, penalty, or interest is cancelled or refunded. Also, the combined tax, penalty, or interest imposed may not exceed \$250. By not properly applying late-filing provisions on welfare exemption claims, the assessor is not in compliance with statutory requirements.

Require a valid OCC prior to granting the welfare exemption.

[Section 254.5](#) states that the assessor may not approve a claim until the BOE has issued a valid OCC. The assessor should cross check with the BOE's list of eligible organizations holding an OCC to determine its

validity. Granting the exemption when the organization does not hold a valid OCC is contrary to statute and allows for an exemption on property that does not qualify to receive the exemption.

Disabled Veterans' Exemption

Require claimants to submit proof of an honorable discharge.

One of the requirements of the disabled veterans' exemption is that the claimant was honorably discharged from military service. The United States Department of Defense issues to each veteran DD 214, *Certificate of Release or Discharge from Active Duty*, which identifies the veteran's condition of discharge: honorable, general, other than honorable, dishonorable, or bad conduct. There is no statutory requirement that a copy of DD 214 must be submitted to the assessor, but it is the simplest way to verify the veterans' discharge status. For the most part, the United States Department of Veterans Affairs (USDVA) will grant a 100 percent disabling condition and compensation only if the veteran has been honorably discharged; however, this is not always the case. Requiring proof of an honorable discharge will ensure the exemption is granted only to qualified persons.

Apply the provisions of section 276 for disabled veterans' exemption claims that are not filed timely.

[Section 276\(a\)](#) provides that 90 percent of any tax on the assessed value of the property shall be canceled or refunded for claims filed after February 15 of the calendar year in which the fiscal year begins, but on or before the following December 10, and that 85 percent is applicable if filed any time after December 10. [Section 276\(b\)](#) further states that if a late-filed claim for the \$150,000 exemption is filed, the amount of any exemption allowed under the late-filed claim under subdivision (a) shall be determined on the basis of that portion of the exemption amount, otherwise available under subdivision (a), that exceeds \$100,000. Not imposing late-filing provisions and allowing the full amount of the eligible exemption is contrary to statutes and results in a loss of property tax revenue.

Grant the disabled veterans' exemption on a prorated basis for the initial qualifying year in accordance with sections 276.1 and 276.2.

[Section 276.1\(b\)](#) states, "Subject to the provisions regarding cancellations and the limitations periods on refunds, the disabled veterans' exemption shall apply beginning on the effective date, as determined by the United States Department of Veterans Affairs (USDVA), of a disability rating that qualifies the claimant for the exemption." In addition, [section 276.2\(b\)](#) states, "The entire amount of the exemption applies to any property tax assessment, including a supplemental and escape assessment, that was made and that served as a lien against the property. The exemption amount shall be appropriately prorated from the date the property became eligible for the exemption."

The denial of the full exemption when claims are timely filed deprives claimants of the full amount of exemption to which they are entitled. The assessor's practice of denying retroactive exemptions and subsequent refunds to qualified claimants is contrary to statute.

Remove the disabled veterans' exemption as of the date the property is no longer the claimant's principal place of residence.

[Section 279](#) provides that the disabled veterans' exemption shall remain in continuous effect unless specified conditions occur, one being that the owner does not occupy the dwelling as their principal place of residence. [Section 276.3\(b\)](#) provides that when property is no longer used by a claimant as their principal place of residence, the exemption shall cease to apply on the date the claimant terminates residency at that location. The practice of not cancelling the exemption when the claimant moves out of the principal place of residence is contrary to statute and may result in the exemption of property not eligible for an exemption.

Correctly calculate the amount of the exemption to be granted for a late-filed claim on the low-income disabled veterans' exemption.

[Section 276\(b\)](#) states, "If a late-filed claim for the one-hundred-fifty-thousand-dollar (\$150,000) exemption is filed in conjunction with a timely filed claim for the one-hundred-thousand-dollar (\$100,000) exemption, the amount of any exemption allowed under the late-filed claim under subdivision (a) shall be determined on the basis of that portion of the exemption amount, otherwise available under subdivision (a), that exceeds one hundred thousand dollars (\$100,000)."

The disabled veterans' exemption requires a one-time filing. Thereafter, the basic amount of the exemption does not require a separate filing. However, a claimant for the disabled veteran's exemption must annually file for any amount over the basic amount and it is that amount on which the partial exemption is to be calculated.

Calculating the amount of the exemption to be granted for the property based on the entire exemption amount rather than the amount exceeding the basic level deprives claimants of the proper amount of exemption to which they are entitled. For example, using the 2011 disabled veterans' exemption amounts of \$116,845 and \$175,269 for the basic and low-income amounts, respectively, a claimant filing for the maximum exemption and receiving a 90 percent late-filing provision should receive 90 percent of the amount over \$116,845; an exemption of \$169,427. A partial exemption calculated on the entire amount yields an exemption of \$157,742 – a difference of \$11,685. The assessor should adjust his procedures to grant the claimant the proper amount of the exemption.