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No. 2001/002

TO COUNTY ASSESSORS:

LEGISLATIVE CHANGES TO THE DISABLED VETERANS' EXEMPTION

The Governor recently signed three bills relating to the disabled veterans' exemption:

- AB 2562 (Chapter 922, effective September 29, 2000) repeals section 276, and adds sections 276, 276.2, and 276.3 of the Revenue and Taxation Code¹
- SB 1362 (Chapter 1085, effective September 30, 2000) amends section 205.5, repeals section 276, and adds sections 276, 276.1, 276.2, and 276.3
- SB 2195 (Chapter 1086, effective September 30, 2000) amends section 205.5.

Both SB 1362 and SB 2195 amend section 205.5. However, since SB 2195 was chaptered last, its amendments to section 205.5 override those made by SB 1362. As a result, this letter will focus on the changes to section 205.5 made by SB 2195.

Both AB 2562 and SB 1362 add sections 276, 276.2, and 276.3, and the versions of these statutes are almost identical in these bills. Section 276 was first repealed and added, however, by AB 2562. Since SB 1362 was chaptered last and sets forth the current version of sections 276, 276.2, and 276.3, this letter will refer to it with respect to the additions of sections 276, 276.2 and 276.3. Because the AB 2562 version of sections 276, 276.2, and 276.3 was effective on September 29, 2000, however, this letter refers to September 29, 2000 as the effective date of these statutes.

Below is a summary of the amendments to the disabled veterans' exemption. In the more detailed discussion of each that follows, we will first describe the law prior to these amendments and then describe the changes.

- The current exemption amounts of \$100,000 and \$150,000 are made permanent (§205.5)
- Multiple levels of exemption depending upon the type of disability are deleted (§205.5)
- The definition of blindness is updated (§205.5)
- The income threshold is raised, and automatic annual adjustments for the low income exemption are instituted (§205.5)
- Partial retroactive exemptions are permitted for any eligible person who did not file a timely claim (§276)

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

- Full retroactive exemptions are permitted for veterans who had applications pending for a disability rating (§276.1)
- Full exemption is permitted for property acquired after the lien date (§276.2)
- Immediate termination of the exemption for property sold to an ineligible third party (§276.3)

EXEMPTION AMOUNTS AND INCOME THRESHOLD (§205.5)

The disabled veterans' exemption applies to the home of a qualified veteran or his or her surviving unmarried spouse. Depending on the nature of the disability and the veteran's income, prior law provided for exemption amounts of \$40,000, \$60,000, \$100,000, or \$150,000, as demonstrated in the table below. In practice, however, the disabled veterans' exemption was generally granted in either the \$100,000 or \$150,000 amounts. Although the statute specified a \$40,000 or \$60,000 exemption for veterans who are blind or who have lost the use of two or more limbs, the Veterans' Administration has classified these injuries as a total disability, qualifying veterans for the higher exemption amounts.

Exemption amounts were higher for claimants who had a household income below the amounts specified in section 20585, which sets forth the maximum income levels for eligibility in the Senior Citizens and Disabled Citizens Property Tax Postponement Program administered by the State Controller's Office. For persons who qualified for the program in 1983, section 20585 set an income limit of \$34,000; for persons who became qualified after 1983, the income limit was reduced to \$24,000.

The law provided, until January 1, 2001, the following exemption amounts:

EXEMPTION AMOUNTS <i>PRIOR TO SEPTEMBER 30, 2000</i>		
Disability Type	Basic Exemption	Low Income Exemption (\$24,000 or \$34,000)
• Blind • Lost two or more limbs	\$40,000	\$60,000
• Totally Disabled • Active Duty Death	\$100,000	\$150,000

As of January 1, 2001, the \$100,000 and \$150,000 exemption amounts were scheduled to be reduced to \$40,000 and \$60,000, respectively. However, Chapter 1086 deletes these scheduled reductions and permanently extends the \$100,000 and \$150,000 exemption amounts. Furthermore, the \$100,000 and \$150,000 exemption amounts apply to all disability types, thereby eliminating the previous scheme of having multiple levels of exemption, depending on the type of disability.

Chapter 1086 also updates the definition of blindness. Being blind in both eyes now means "having a visual acuity of 5/200 or less, or concentric contraction of the visual field to 5 degrees or less." This reflects the current definition of blindness used by the Veterans' Administration.

In addition, Chapter 1086 deletes the income threshold reference to section 20585, which provides limits of either \$24,000 or \$34,000, and instead provides an income limit of \$40,000.

The income limits will be annually adjusted, beginning in 2002, by an inflation factor, as measured by the annual change in the California Consumer Price Index (CCPI) for all items.

The percentage change will be measured from October of the prior fiscal year to October of the current fiscal year and rounded to the nearest one-thousandth of one percent. Each year, the Board will issue a Letter to Assessors announcing the inflation factor for the disabled veterans' exemption as soon as the figures are available from the Department of Industrial Relations, usually around the first of December.

As of September 30, 2000, the amendments made by Chapter 1086 provide for the following exemption amounts:

EXEMPTION AMOUNTS AS OF SEPTEMBER 30, 2000		
Disability Type	Basic Exemption	Low Income Exemption (\$40,000 + CCPI)
• Blind • Lost two or more limbs • Totally Disabled • Active Duty Death	\$100,000	\$150,000

FILING REQUIREMENTS (§276)

Under prior law, the disabled veterans' exemption was generally available in two amounts:

- \$100,000 for qualified persons, hereafter referred to as the "basic exemption," which was provided on a *one time filing*, and
- \$150,000 for qualified persons with low incomes, as specified, hereafter referred to as the "low income exemption," which required *a first time filing and subsequent annual filings* to reaffirm income eligibility.

With respect to property tax exemptions that require claims, article XIII, section 6 of the California Constitution provides that the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption which reduces a property tax shall be deemed a waiver of the exemption for *that* year.

For both levels of the disabled veterans' exemption, first time filings for the basic exemption and first time filings or annual re-filings for the low income exemption, a claim had to have been filed between the lien date (January 1) and February 15 to receive the full amount of the exemption for the ensuing fiscal year (July 1 - June 30). If a claim was filed between February 16 and December 10, 80 percent of the exemption was available. If a claim was not made on or before December 10 (the date the first installment of the property tax bill becomes delinquent), then *no* amount of exemption could be applied for that fiscal year. For annual refilings of the \$150,000 low income exemption, where a claim was not made on or before December 10, the exemption was not lost completely, but instead was reduced to the basic exemption level of \$100,000.

The following table summarizes the filing provisions for the disabled veterans' exemption prior to the September 29 amendments.

LATE FILING PROVISIONS PRIOR TO SEPTEMBER 29, 2000						
Exemption	Amount of Exemption	Filing Reqs.	Claim Filed by 2/15	Claim Filed between 2/16 and 12/10	Claim Filed After 12/10	Refund for Prior Tax Years
Basic Exemption	\$100,000	One Time Only	\$100,000 (100%)	\$80,000 (100,000 x 80%)	\$0 for <i>current</i> tax year	No
Low Income Exemption	\$150,000	Annual Refiling	\$150,000 (100%)	\$120,000 (150,000 x 80%)	\$100,000 for current tax year for <i>annual refiling</i> (\$0 for current tax year for <i>first time filing</i>)	No

Chapter 1085 (1) revises and recasts the partial exemption provisions for late filings for all claimants, and (2) creates a separate statute for the specific case involving a disability rating issued by the federal government with a retroactive effective date.

Late Filing – Generally (§276). Chapter 1085 repeals the current provisions related to the amount of the exemption granted to a disabled veteran who files a claim for a 100 percent exemption after the final filing date, which is February 15. In effect, for a claim filed between February 16 and December 10, the new provisions increase the amount of the partial exemption from 80 percent to 90 percent. Additionally, the new provisions permit 85 percent of tax to be canceled or refunded for prior tax years (subject to the section 5096 four-year statute of limitations on refunds) on property for which the exemption would have been available but for the taxpayer's failure to file a claim. The following table summarizes the new late filing provisions:

LATE FILING PROVISIONS AS OF SEPTEMBER 29, 2000						
Exemption	Amount of Exemption	Filing Reqs.	Claim Filed by 2/15	Claim Filed between 2/16 and 12/10	Claim Filed After 12/10	Cancellation or Refund for Prior Tax Years
Basic Exemption	\$100,000	One Time Only	\$100,000	\$90,000 (100,000 x 90%)	\$85,000 (100,000 x 85%) for <i>current</i> tax year	Yes, @ 85% per year (refund up to four prior tax years)
Low Income Exemption	\$150,000	Annual Refiling	\$150,000	\$135,000 (150,000 x 90%)	\$127,500 (150,000 x 85%) for <i>current</i> tax year	Yes, @ 85% per year (refund up to four prior tax years)

These new late filing provisions apply to properties eligible on the lien date but do not apply for the year in which the property was acquired, if the acquisition was prior to September 29, 2000, the effective date of section 276.2. The new provisions (section 276.2) that allow the exemption to be applied to property acquired during the year are not retroactive. For example, assume a property was acquired on October 1, 1998 by an eligible veteran who has not yet filed any claims. The eligible veteran can now file for 1999-2000 and receive the 85% exemption because the property was owned and occupied on January 1, 1999. However, since section 276.2 was not in effect in 1998, the veteran cannot file for 1998-1999 because the property was not eligible for the exemption on January 1, 1998.

Late Filings - Delayed Disability Ratings (§276.1). Chapter 1085 permits the full amount of the disabled veterans' exemption (rather than a partial exemption as provided above) to be granted retroactively for property for which the exemption would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs. The exemption, subject to the limitations on refunds, would be granted as of the effective date of the disability rating.

FULL EXEMPTION FOR PROPERTY ACQUIRED AFTER THE LIEN DATE (§276.2)

Formerly, if a disabled veteran changed his or her principal place of residence on or after the lien date (January 1), the exemption would not terminate on the first home for the ensuing fiscal year (July 1 - June 30). The exemption was not allowed on the new home until a claim was filed on or before February 15, or within 30 days of notice of supplemental assessment on the new home, whichever occurs first.

Chapter 1085 adds section 276.2 to the Revenue and Taxation Code and permits a *full* exemption for property acquired after the lien date by an eligible person if a claim is filed by the end of the calendar year in which the property was purchased. Properties acquired *prior to* September 29, 2000, will not become eligible for the exemption until the ensuing lien date.

Example 1: If a property was purchased on September 1, 2000 for \$200,000 and the veteran qualifies for the \$100,000 exemption, the property will *not* be eligible for the exemption until January 1, 2001 for the 2001-02 fiscal year.

Example 2: If a property was purchased on October 2, 2000 for \$200,000 and the veteran qualifies for the \$100,000 exemption, a claim must be filed on or before January 1, 2001 to receive a full 100 percent exemption (\$100,000) for the 2000-01 fiscal year. If a claim for the 2000-01 fiscal year is filed after January 1, 2001, then 85 percent of the exemption would be available under the late filing provisions.

TERMINATION OF EXEMPTION UPON TRANSFER TO INELIGIBLE THIRD PARTY (§276.3)

As stated above, under prior law, if a disabled veteran changed his or her principal place of residence on or after the lien date (January 1), the exemption would not terminate on the first home for the ensuing fiscal year (July 1 - June 30). Newly added section 276.3 provides for the termination of the exemption on the date of sale or transfer, when property is sold or transferred to a third party who is not eligible for the exemption. Thus, for changes in ownership that occur on or after September 29, 2000, for property which has a disabled veterans' exemption, the exemption should be terminated.

FORMS

The amendments discussed above required changes to the disabled veterans' exemption claim forms and instructions (BOE 261-G and BOE-261-GNT). The revised forms and instructions were mailed separately (Letter To Assessors No. 2000/084, dated December 21, 2000).

CONCLUSION

Enclosed are copies of sections 205.5, 276, 276.1, 276.2, and 276.3. Also enclosed is a summary of the late filing provisions for various property tax exemptions where a claim must be filed to receive the exemption. If you have any questions regarding these changes, please contact our Exemptions Unit at (916) 445-4982.

Sincerely,

/s/ Richard C. Johnson

Richard C. Johnson
Deputy Director
Property Taxes Department

RCJ:grs
Enclosure

Revenue and Taxation Code Sections 205.5, 276, 276.1, 276.2, and 276.3

Section 205.5 as amended by Chapter 1086 of the Statutes of 2000:

205.5. (a) Property that is owned by, and that constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed ~~forty thousand dollars (\$40,000)~~ one hundred thousand dollars (\$100,000), if the veteran is blind in both eyes ~~or, has lost the use of two or more limbs as a result of injury or disease incurred in military service or that does not exceed one hundred thousand dollars (\$100,000), or~~ if the veteran is totally disabled as a result of injury or disease incurred in military service. The one-hundred-thousand-dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), in the case of an eligible veteran whose household income ~~as defined in Section 20504~~ does not exceed the ~~amounts specified in Section 20585~~ amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(b) For purposes of this section, “veteran” means either of the following:

(1) A veteran as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran’s spouse.

(2) Any person who would qualify as a veteran pursuant to paragraph (1) except that he or she has, as a result of a service-connected injury or disease died while on active duty in military service. The United States Department of Veterans Affairs shall determine whether an injury or disease is service connected.

(c) (1) Property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed ~~forty~~ one hundred thousand dollars ~~(\$40,000)~~ (\$100,000), in the case of a veteran who was blind in both eyes, had lost the use of two or more limbs, or ~~one hundred thousand dollars (\$100,000), in the case of a veteran who~~ was totally disabled provided that either of the following conditions is met:

(A) The deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977.

(B) The veteran died from a disease that was service connected as determined by the United States Department of Veterans Affairs.

The ~~forty thousand dollar (\$40,000) exemption shall be sixty thousand dollars (\$60,000), and the one-hundred-thousand-dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000)~~, in the case of an eligible unmarried surviving spouse whose household income ~~as specified in Section 20504~~ does not exceed the ~~amounts specified in Section 20585~~ amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(2) Commencing with the 1994–95 fiscal year, property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran as described in paragraph (2) of subdivision (b) is exempt from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars (\$100,000). The one-hundred-thousand-dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), in the case of an eligible unmarried surviving spouse whose household income ~~as specified in Section 20504~~ does not exceed the ~~amounts specified in Section 20585~~ amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(d) As used in this section, “property that is owned by a veteran” or “property that is owned by the veteran’s unmarried surviving spouse” includes all of the following:

Revenue and Taxation Code Sections 205.5, 276, 276.1, 276.2, and 276.3

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common, or as community property.

(2) Property owned by the veteran or the veteran's spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse.

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(e) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less, or concentric contraction of the visual field to 5 degrees or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Department of Veterans Affairs or the military service from which the veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(f) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section coown a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

~~(g) This section shall remain in effect until January 1, 2001, and on that date is repealed, unless a later enacted statute, that is chaptered on or before that date, deletes or extends that date.~~

(g) To determine, for taxes that attach as a lien in 2002 and in each calendar year thereafter, whether the lower or higher exemption amount governs the amount of an exemption under this section, each household income amount applied under subdivision (a) or (c) for taxes that attached as a lien during the immediately preceding calendar year shall be adjusted by an inflation factor that is the percentage change, rounded to the nearest one-thousandth of 1 percent, from October of the prior fiscal year to October of the current fiscal year, in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

Revenue and Taxation Code Sections 205.5, 276, 276.1, 276.2, and 276.3

Sections 276, 276.1, 276.2, and 276.3 as added by Chapter 1085 of the Statutes of 2000:

276. (a) Except as otherwise provided by subdivision (b), for property for which the disabled veterans' exemption described in Section 205.5 was available, but for which a timely claim was not filed, a partial exemption shall be applied in accordance with whichever of the following is applicable:

(1) Ninety percent of any tax, including any interest or penalty thereon, levied upon that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim shall be canceled or refunded, provided that an appropriate claim for exemption is filed after 5 p.m. on February 15 of the calendar year in which the fiscal year begins but on or before the following December 10.

(2) If an appropriate claim for exemption is filed after the time period specified in paragraph (1), 85 percent of that portion of any tax, including any interest or penalty thereon, that was levied upon that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, shall be canceled or refunded. Cancellations or refunds made or issued under this paragraph are subject to the limitations periods on refunds as described in Section 5096.

(b) If a late filed claim for the sixty-thousand-dollar (\$60,000) exemption is filed in conjunction with a timely filed claim for the forty-thousand-dollar (\$40,000) exemption, or 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 forty thousand dollars (\$40,000) or one hundred thousand dollars (\$100,000), as applicable.

(c) For those claims filed pursuant to subdivision (a) after November 15, the exemption under that subdivision may be applied to the second installment. If that exemption is so applied, the first installment is still delinquent on December 10, and is subject to delinquent penalties provided for in this division if that installment is not timely paid. A refund shall be made to the taxpayer upon a claim submitted to the auditor if the exemption is applied to the second installment and either of the following is true:

(1) Both installments are paid on or before December 10.

(2) The reduction in taxes resulting from the exemption exceeds the amount of taxes due on the second installment.

276.1. For property for which the disabled veterans' exemption described in Section 205.5 would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA), there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, provided that the claimant meets both of the following conditions:

(a) The claimant had an application pending with the USDVA for a disability rating and subsequently received a rating that qualifies the claimant for the disabled veterans' exemption described in Section 205.5.

(b) The claimant subsequently files an appropriate claim for the disabled veterans' exemption described in Section 205.5 on or before the next following lien date.

Revenue and Taxation Code Sections 205.5, 276, 276.1, 276.2, and 276.3

276.2. If the disabled veterans' exemption as described in Section 205.5 would have been available for a property, but for that property being acquired by a person eligible for the exemption only after the lien date, and an appropriate application for that exemption is filed on or before the lien date in the calendar year next following the calendar year in which the property was acquired, there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate application.

276.3. In the event that property receiving a disabled veterans' exemption as described in Section 205.5 is sold or otherwise transferred to a person that is not eligible for that exemption, the exemption shall cease to apply on the date of that sale or transfer.

SUMMARY OF LATE FILING PROVISIONS FOR VARIOUS PROPERTY TAX EXEMPTIONS

Exemption	Amount of Exemption	Filing	Due Date	Late Filing	Retroactive for Prior Tax Years
Basic Disabled Veterans'	\$100,000	One Time	2/15	90% if by 12/10 85% after 12/10	Yes, @ 85% (refund up to four years)
Low Income Disabled Veterans'	\$150,000	Annual	2/15	90% if by 12/10 85% after 12/10	Yes, @ 85% (refund up to four years)
Homeowners'	\$7,000	One Time	2/15	80% if by 12/10	No
Veterans'	\$4,000	Annual	2/15	80% if by 12/10	No
Welfare, Church, Cemetery, Exhibition, Veterans' Organizations, Public Libraries, Free Museums, Schools, Colleges, Universities	Generally 100%, sometimes partial exemption where part of property is eligible	Annual	2/15	90% if filed on or before 12/31* 85% if filed after 12/31* * But not more than \$250 is to be charged for those years that taxes can be cancelled or refunded. For new properties and new entities: If acquired between 1/1 and 6/30, 100% if timely filed by 12/31 (of calendar year of acquisition) If acquired between 7/1 and 12/31, timely filed by 12/31 (of calendar year of acquisition) to be eligible for a prorated cancellation of current fiscal year's taxes For any acquisition during the calendar year, 85% if filed after 12/31	Yes, @ 85% if filed after 12/31* (If taxes were <i>paid</i>, refund up to four years. If taxes were <i>not paid</i>; taxes may be cancelled for an <i>unlimited</i> number of years.) * But not more than \$250 is to be charged for those years that taxes can be cancelled or refunded.
Religious	Generally, 100%	One Time	2/15	90% if filed on or before 12/3 * 85% if filed after 12/31* * But not more than \$250 is to be charged for those years that taxes can be cancelled or refunded.	Yes, @ 85% * (If taxes were <i>paid</i>, refund up to four years. If taxes were <i>not paid</i>; taxes may be cancelled for an <i>unlimited</i> number of years.) * But not more than \$250 is to be charged for those years that taxes can be cancelled or refunded.