

Amend Revenue and Taxation Code Section 276, related to the Disabled Veterans' Exemption, to delete obsolete references to prior exemption amounts that have since been increased, and to correct a transposition error within that section that intends a cross reference to Section 4985. (Housekeeping)

Source: Senate Bill 1777, 2008 (Property and Special Taxes Department)

Existing Law

Existing law provides a "disabled veterans' exemption" to reduce the property tax assessed value of the home of qualified veterans or their surviving unmarried spouse. The disabled veterans' exemption is also available to the surviving spouse of a person who has died as a result of a service connected injury or death while on active duty in military service.

The amount of the exemption depends upon the claimant's income:

- The basic exemption amount is \$100,000 with annual increases for inflation. For 2008, the exemption is \$111,296.
- The low-income exemption is \$150,000 with annual increases for inflation. For 2008, the exemption is \$166,944 for those with a household income below \$49,969.

A claim must be filed with the local county assessor to receive the exemption. If filing for the basic exemption, a claim need only be applied for once. The low-income exemption requires a claim to be filed each year to verify income eligibility. The annual filing period is between January 1 and February 15. However if a claim is filed after the deadline, the exemption can still be received at a reduced level as outlined in Revenue and Taxation Code Section 276.

In 1989, the exemption amounts were increased from \$40,000 and \$60,000 to \$100,000 and \$150,000, respectively, but with a sunset clause that would have automatically reduced the exemption amounts to the prior levels. However, the increased exemption amounts were made permanent through SB 320 (Stats. 1989, Ch. 1077) and SB 2195 (Ch. 1086, SB 2195).

This Proposal

This proposal amends Section 276 to delete a reference to outdated exemption amount levels as a housekeeping measure. It also corrects a transposition error in Section 276 intending a cross reference to Section 4985, rather than Section 4895, relating to the provisions of law for cancelling taxes due. In some cases, to grant a disabled veterans' exemption for a late filed claim, a cancellation of property taxes outstanding is necessary.

Section 276 of the Revenue and Taxation Code is amended to read:

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 made under this paragraph are subject to the provisions of Article 1 (commencing with Section ~~4895~~ 4985) of Chapter 4. Refunds issued under this paragraph are subject to the limitations periods on refunds as described in Article 1 (commencing with Section 5096) of Chapter 5.

(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.