

Memorandum

To: Ms. Brenda Fleming
Executive Director

Date: February 7, 2019

From: David Yeung, Chief
County-Assessed Properties Division

Subject: **Board Meeting – February 26, 2019**
Item K
Property Tax Deputy Director's Report
Assessors' Handbook Section 260, General Exemptions

Board staff developed the attached Issue Paper 19-001 requesting the Phase One chapters and appendix of Assessors' Handbook Section 260, *General Exemptions* (AH 260), be adopted and authorized for publication.

I respectfully recommend that the discussion of proposed draft Phase One chapters of AH 260 be placed on the February 2019 Board agenda.

DY:tl
Attachment

cc: Mr. Henry Nanjo

Approved:



Brenda Fleming
Executive Director

Board Approved:


Chief, Board Proceedings Division

Assessors' Handbook Section 260, *General Exemptions*

California State Board of Equalization
February 26, 2019 Board Meeting
Sacramento, CA

(Rev. 2: 02/25/19)



Guidance

Under what authority does the Board issue guidance?

- Under Government Code section 15606, the Board is charged with preparing and issuing instruction to assessors designed to promote uniformity throughout the state.

Guidance

How does the Board fulfill this mandate?

- The Assessment Services and Training Unit of the Property Tax Department provides guidance to county assessors and taxpayers.
- Guidance is provided through written correspondence to individuals or to the general public through published Letters to Assessors and the Assessors' Handbook.

Assessors' Handbook

- The Assessors' Handbook is a series of manuals developed by the staff of the Board of Equalization.

- The objective of the Assessors' Handbook is to give county assessors, their staff, and other interested parties an understanding of the principles of property assessment and real and personal property appraisal for property tax purposes.

Assessors' Handbook

- There are currently 28 Assessors' Handbook Sections on the BOE website. A few examples include:

AH 267, Welfare, Church, and Religious Exemptions

AH 401, Change in Ownership

AH 501, Basic Appraisal

Where are the Assessors' Handbooks located?

- BOE website – accessed through the property tax page:
<http://www.boe.ca.gov/proptaxes/ahcont.htm>

Assessors' Handbook Section 260, *General Exemptions*

What is covered in Assessors' Handbook Section 260, *General Exemptions*?

- The Board of Equalization staff initiated a project in 2018 to develop a new section to add to the Assessors' Handbook to provide guidance related to property tax exemptions.
- The new section is titled Assessors' Handbook Section 260, *General Exemptions* (AH 260), and each chapter will discuss a different property tax exemption, including qualifications for exemption and claim filing requirements.

Assessors' Handbook Section 260, General Exemptions

Project Phases

Aircraft for Display
Exemption

Aircraft for Historical
Significance
Exemption

Works of Art
Exemption

Exhibition
Exemption

Appendix

Free Public Library
and Free Museum
Exemption

College Exemption

Public School
Exemption

Lessors Exemption

Homeowners
Exemption

Disabled Veterans
Exemption

Veterans Exemption

Leased Property
Used Exclusively for
Low-Income Rental
Housing

Tribal Housing
Exemption

Low-Value Property
Exemption

Property Acquired
After the Lien Date

Filing Dates and
Late Filing

Assessors' Handbook Section 260, *General Exemptions* Phase One

- **August 1, 2018** – The draft Phase One chapters and appendix were distributed via Letter to Assessors No. 2018/036 and interested parties were invited to submit comments.
- **September 14, 2018** – Deadline for submission of comments from interested parties on the draft chapters and appendix.
- **November 14, 2018** – Final drafts with proposed changes highlighted were distributed via Letter to Assessors No. 2018/053, and interested parties were invited to submit comments on the proposed changes.
- **November 28, 2018** – Deadline for submission of comments from interested parties on the final drafts.
- **February 26, 2018** – Staff to present the recommendation that the proposed draft of Phase One chapters and appendix be adopted and authorized for publication.

Issue Paper Number **19-001**

☒ Board Meeting
☐ Other



Assessors' Handbook Section 260, *General Exemptions*

I. Issue

Should the State Board of Equalization (BOE) adopt and authorize publication of the Phase One chapters and appendix of Assessors' Handbook Section 260, *General Exemptions*?

II. Alternative 1 - Staff Recommendation

Staff recommends that the following chapters and appendix of Assessors' Handbook Section 260, *General Exemptions*, be adopted by the BOE. See attached for proposed language.

- Chapter 8 Aircraft for Display Exemption
- Chapter 9 Aircraft of Historical Significance Exemption
- Chapter 10 Works of Art Exemption
- Chapter 11 Exhibition Exemption
- Appendix A Glossary of Terms

III. Other Alternative(s) Considered

Issue Paper Number 19-001

IV. Background

Government Code section 15606, subdivision (c), directs the BOE to prescribe rules and regulations governing county assessors in the performance of their duties, and subdivision (e) provides that the BOE shall issue instructions, such as those set forth in proposed Assessors' Handbook Section 260, *General Exemptions* (AH 260).

Each chapter of AH 260 discusses a different property tax exemption, including qualifications and claim filing requirements. Property tax exemptions that are comprehensively discussed in existing Assessors' Handbook sections¹ will not be included in this new section.

The project has been separated into four phases and the chapters designated for each phase are as follows:

Phase One:

- Chapter 8 Aircraft for Display Exemption
- Chapter 9 Aircraft of Historical Significance Exemption
- Chapter 10 Works of Art Exemption
- Chapter 11 Exhibition Exemption

Phase Two:

- Chapter 4 Free Public Library and Free Museum Exemption
- Chapter 5 College Exemption
- Chapter 6 Public School Exemption
- Chapter 7 Lessors' Exemption

Phase Three:

- Chapter 1 Homeowners' Exemption
- Chapter 2 Disabled Veterans' Exemption
- Chapter 3 Veterans' Exemption

Phase Four:

- Chapter 12 Leased Property Used Exclusively for Low-Income Rental Housing (Section 236 Exemption)
- Chapter 13 Tribal Housing Exemption
- Chapter 14 Low-Value Property Exemption
- Chapter 15 Property Acquired After the Lien Date
- Chapter 16 Filing Dates and Late Filing

V. Discussion

The following is a chronology of the drafting process for Phase One of AH 260:

• August 1, 2018

The draft Phase One chapters and appendix of AH 260 were distributed via Letter To Assessors No. 2018/036 and interested parties were invited to submit comments.

¹ Welfare, church, and religious exemptions are found in Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*; vessel exemptions are found in Assessors' Handbook Section 576, *Assessment of Vessels*; business inventory exemption is found in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*; and cemetery exemption is found in Assessors' Handbook Section 265, *Cemetery Exemption*.

FORMAL ISSUE PAPER

- **September 14, 2018**

Deadline for submission of comments from interested parties on the draft chapters and appendix. The comments received included suggested language changes and proposed additions to Chapter 9, *Aircraft of Historical Significance Exemption*, and Chapter 10, *Works of Art Exemption*. All comments received were minor or technical in nature.

- **November 14, 2018**

Final drafts of Chapter 9 and Chapter 10, with proposed changes highlighted, were distributed via Letter To Assessors No. 2018/053, and interested parties were invited to submitted comments on the proposed changes.

- **November 28, 2018**

Deadline for submission of comments from interested parties on the final drafts of Chapter 9 and Chapter 10. No comments were received.

VI. Alternative 1 - Staff Recommendation

Staff recommends that the attached proposed draft Phase One chapters and appendix of AH 260 be adopted and authorized for publication.

A. Description of Alternative 1

Staff recommends that the Board issue guidance that discusses the qualifications and claim filing requirements for the following property tax exemptions:

- Aircraft for Display Exemption
- Aircraft of Historical Significance Exemption
- Works of Art Exemption
- Exhibition Exemption

The proposed Phase One chapters contain comprehensive information regarding these property tax exemptions. Appendix A contains a glossary of terms relevant thus far used in the proposed chapters.

B. Pros of Alternative 1

Adoption of the attached Phase One chapters and appendix of AH 260 will promote uniformity in exemption administration within the county assessors' offices throughout California.

C. Cons of Alternative 1

None.

D. Statutory or Regulatory Change for Alternative 1

None.

E. Operational Impact of Alternative 1

None.

FORMAL ISSUE PAPER

F. Administrative Impact of Alternative 1

1. Cost Impact

Development of sections of the Assessors' Handbook is within the scope of the statutory duties of the County-Assessed Properties Division and will be absorbed by existing staff.

2. Revenue Impact

None.

G. Taxpayer/Customer Impact of Alternative 1

None.

H. Critical Time Frames of Alternative 1

None.

VII. Other Alternatives

A. Description of Alternative

None.

Preparer/Reviewer Information

Prepared by: Property Tax Department, County-Assessed Properties Division

Current as of: January 18, 2019

ASSESSORS' HANDBOOK
SECTION 260

GENERAL EXEMPTIONS

FEBRUARY 2019

CALIFORNIA STATE BOARD OF EQUALIZATION

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FOREWORD

Assessors' Handbook Section 260, *General Exemptions* (AH 260), provides information regarding property tax exemptions that are not comprehensively discussed in other sections of the Assessors' Handbook. The objective of this handbook section is to provide assessor staff and other interested parties an informational resource to assist in understanding the qualifications and claim filing requirements of each exemption; however, it is not possible to address all the unique situations that may arise in determining eligibility for these exemptions.

Of the exemptions discussed in this handbook section, some are authorized by Article XIII, section 3, subdivisions (d), (e), (k), (o), (p), and (q), of the California Constitution, while others are allowed under various statutes in the Revenue and Taxation Code.

Property tax exemptions not discussed in this handbook section are included in other handbook sections: the cemetery exemption is found in Assessors' Handbook Section 265, *Cemetery Exemption*; the welfare, church, religious, and veterans' organization exemptions are found in Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*; the business inventory exemption is found in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*; and vessels exemptions are found in Assessors' Handbook Section 576, *Assessment of Vessels*.

Section 15606, subdivision (c), of the Government Code directs the BOE to prescribe rules and regulations governing assessors in the performance of their duties, and subdivision (f) provides that the BOE shall issue instructions, such as those set forth in this handbook section. While regulations adopted by the BOE are binding as law, Board-adopted handbook sections are advisory only. Nevertheless, courts have held that they may be properly considered as evidence in the adjudicatory process.¹ The citations and law references in this publication were current as of the writing of the handbook section.

The drafting of this handbook section was undertaken by staff of the County-Assessed Properties Division of the Property Taxes Department. BOE staff met with members of the California Assessors' Association, County Counsels' Association of California, and industry representatives to solicit input for this handbook section. The BOE approved this handbook section on _____.

Brenda Fleming
Executive Director
California State Board of Equalization

¹ *Coca-Cola Co. v. State Board of Equalization* (1945) 25 Cal.2d 918; *Prudential Ins. Co. v. City and County of San Francisco* (1987) 191 Cal.App.3d 1142; *Hunt-Wesson Foods, Inc. v. County of Alameda* (1974) 41 Cal.App.3d 163.

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CHAPTER 8: AIRCRAFT FOR DISPLAY EXEMPTION

0800.00

An aircraft that is made available for display in an aerospace museum may qualify for exemption from property taxation pursuant to Revenue and Taxation Code¹ section 217.1. The claimant must file for the exemption annually and the aircraft must meet the qualifications for the exemption each year. Unlike most exemptions, the Aircraft for Display Exemption is not based on the status of the property as of the lien date; rather it is based on the property's display status during the 12-month period immediately preceding the lien date.

QUALIFICATIONS

0801.00

The Aircraft for Display Exemption applies only if the aircraft is available for display in either:

- A publicly owned aerospace museum; or
- An aerospace museum that is regularly open to the public and operated by a nonprofit organization that qualifies for exemption pursuant to section 23701d.²

In addition, the aircraft, classified as personal property, must meet at least one of following criteria:

- The aircraft has been restored or maintained, whether currently certified or not for flight purposes.
- The aircraft has been donated in perpetuity to the aerospace museum.

This exemption does not apply to any aircraft loaned to the aerospace museum by any person who holds aircraft primarily for purposes of sale.³

AVAILABLE FOR DISPLAY TO THE PUBLIC

0801.05

One of the primary requirements to qualify for the exemption is that the aircraft must have been *available for public display* in an aerospace museum, whether the museum is publicly owned or one that is operated by a nonprofit organization, for 90 days or more during the 12-month period that immediately preceded the lien date for the year that the exemption is claimed.⁴

In addition, if the aircraft is displayed in an aerospace museum *operated by a nonprofit organization*, in order to qualify for the exemption, the museum must be *regularly open to the public*. For purposes of this exemption, *regularly open to the public* means that the nonprofit aerospace museum was open to the public for 20 or more hours per week for 35 or more weeks during the 12-month period that immediately preceded the lien date for the year for which the

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

² Section 23701d provides state income tax exemption for certain nonprofit organizations.

³ Section 217.1(d).

⁴ Section 217.1(e).

exemption is claimed.⁵ However, a publicly owned aerospace museum does not need to meet this *regularly open to the public* requirement.

PROSPECTIVE TREATMENT IN THE INITIAL QUALIFYING YEAR

0801.10

Provided the required certifications are made, a claimant may qualify for the Aircraft for Display Exemption for the initial year, even if the display requirements were not met, under the following circumstances:

- When the aircraft was first made available for public display less than 90 days prior to the lien date; or
- When the museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during that period.

If the aircraft was first made available for public display less than 90 days prior to the lien date, the exemption may still be granted if the claimant certifies in writing that the aircraft will be made available for public display for 90 days or more during the 12-month period commencing with the first day the aircraft is made available for public display. In this situation, it is possible for the same display dates to be used to meet the exemption requirements for both the initial qualifying year and the subsequent year.

If the museum has been opened for less than 35 weeks, or for less than 20 hours per week, during the required time period, the exemption may still be granted if the director or other officer of the museum certifies in writing that the museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the date the aerospace museum was first opened.⁶

Example 8-1

An aerospace museum, operated by a qualified nonprofit organization, was *first* opened on June 1, 2017. It is currently open three days per week, Thursday through Saturday, from 9:00 a.m. to 4:00 p.m. A claimant timely files a completed claim form requesting exemption for fiscal year 2018-2019 before February 15, 2018, for a restored F-14 airplane that has been continuously on display at the museum since its opening.

The assessor reviews the certification from the museum. The aircraft met the 90-day minimum display requirement in 2017 prior to the January 1, 2018 lien date; however, the museum was not open for the required 35-week minimum time period. The claimant obtained a written certification from the director of the aerospace museum that the museum will be open for at least 4 weeks prior to June 1, 2018 (35 weeks minimum minus the 31 weeks the museum was open in 2017) and attaches the written certification to the claim form.

⁵ Section 217.1(f)

⁶ Section 217.1(f).

The Aircraft for Display Exemption should be approved by the assessor as meeting the provisions of section 217.1.

In the instance of prospective treatment in the initial qualifying year, the assessor should request additional information at a later date to verify compliance. If the claimant certified in the claim form that the aircraft would be made available for display for the required period of time⁷ or that the aerospace museum would be open for the required period of time,⁸ but the aircraft was not made available or the museum was not open as certified, the exemption shall be cancelled, and an escape assessment may be made as provided by section 531.1.⁹

FILING REQUIREMENTS

0802.00

CLAIM FORM

0802.05

The Board-prescribed form BOE-260-A, *Certificate and Affidavit for Exemption of Certain Aircraft*, must be used when claiming this exemption. A claimant must provide all information requested on the claim form on an annual basis and certify under penalty of perjury of its accuracy.¹⁰ The assessor may also require other proof of the facts stated on the claim form before allowing the exemption. The bottom section of the claim form, which is to be completed by the director or other officer of the aerospace museum in which the aircraft was displayed, serves as certification that the aircraft was available for public display for the required time period.

The number of weeks or hours that the museum was open during the 12-month period preceding the lien date is not verified on the claim form. However, the assessor may request such verification.

Each year, the claimant may complete one claim form for exemption for multiple aircraft in the same aerospace museum, listing the following information on an attachment:

- Make, model, year, and FAA or tail number of each aircraft; and
- The nature of each aircraft for which the exemption is claimed (restored or maintained aircraft and/or aircraft donated in perpetuity).

Similarly, the director or officer of the aerospace museum may list the dates that multiple aircraft were on display on an attachment, but he or she must still sign BOE-260-A, as well as each attached information sheet.

FILING PERIOD

0802.10

A claim for the exemption must be filed annually with the assessor between the lien date and 5:00 p.m. on February 15 to receive 100 percent of the exemption for the ensuing fiscal year. Since

⁷ Section 217.1(e).

⁸ Section 217.1(f).

⁹ Section 217.1(g).

¹⁰ Section 217.1(b).

- 1 there is no late filing provision for the Aircraft for Display Exemption, the exemption is waived
 2 for the current year if the claimant fails to file by February 15.¹¹

Aircraft for Display Exemption		
Exemption Allowed:	100 Percent	None
Claim Filed:	On or before 5:00 p.m. February 15 of the year for which the exemption is being claimed.	No statute allows for late filing after February 15.
Reference:	Section 217.1(c)	N/A

- 3
- 4 **APPROPRIATION** **0803.00**
- 5 No appropriation is made for the Aircraft for Display Exemption and the state will not reimburse
 6 any local agency for any loss in property tax revenue pursuant to this exemption.

¹¹ Sections 217.1(c), 255, and 260.

CHAPTER 9: 0900.00 AIRCRAFT OF HISTORICAL SIGNIFICANCE EXEMPTION

Aircraft of historical significance may qualify for exemption from property taxation pursuant to Revenue and Taxation Code¹ 220.5. An aircraft and its use must meet the qualifications for the exemption each year, and the owner of the aircraft must annually file and qualify for the exemption. Unlike most exemptions, the Aircraft of Historical Significance Exemption is not based on the status of the property as of the lien date, rather it is based on the property's display status during the 12-month period immediately preceding the lien date.

DEFINITION 0901.00

Aircraft of historical significance is defined in subdivision (d) of section 220.5 as:

...any aircraft that is an original, restored, or replica of a heavier than air powered aircraft that is 35 years or older or any aircraft of a type or model of which there are fewer than five in number known to exist worldwide.

Replica, as used in this statute, refers to a replica aircraft that is itself 35 years or older, rather than a replicated aircraft of an aircraft *type* that meets the age requirement. In other words, a newly built aircraft that is a replica of a 1940 T-150 Cessna would not meet the requirements of the exemption.

For purposes of the *fewer than five* requirement, the airplane's original make and model are the determining factors regardless of the number or type of modifications the aircraft may have undergone. Additionally, in order to receive the Aircraft of Historical Significance Exemption on an aircraft where fewer than five exist in the world, the aircraft must be viewed within the context of the Aircraft of Historical Significance Exemption itself; thus, the requirement that there be fewer than five aircraft of that type in the world does not stand alone from the requirement that an aircraft also be one that is historically significant. For example, an aircraft assembled from a kit resulting in an aircraft that is neither 35 years or older nor historically significant does not fit within the scope of this exemption, even if there are fewer than five in number of the specific type or model of that kit.

QUALIFICATIONS 0902.00

The Aircraft of Historical Significance Exemption applies only if *all* of the following conditions are satisfied:²

1. The assessee is an individual owner who does not hold the aircraft primarily for purposes of sale. An *individual owner* is a live person, not a legal entity such as a corporation or partnership; however, if more than one individual owns the aircraft, the exemption may

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

² Section 220.5(b).

1 still be granted. Thus, the claimant(s) may be two spouses or several co-owners, as long as
2 they are shown as the *owner*;³

3 2. The assessee does not use the aircraft for commercial purposes or general transportation;
4 and

5 3. The aircraft is available for display to the public at least 12 days during the 12-month period
6 immediately preceding the lien date for the year for which the exemption is claimed.

7 **AVAILABLE FOR DISPLAY TO THE PUBLIC**

0902.05

8 One of the primary requirements to qualify for the exemption is that the airplane must be available
9 for display to the public at least 12 days annually.⁴ *Available for display to the public* means actual
10 display or documented willingness to display at:

- 11 • An organized air show;
- 12 • A museum; or
- 13 • A specially designated area set aside for historical aircraft open to the public.

14 The airplane must be displayed in a place where deliberate public viewing can be accommodated.
15 An owner's home site will lack reasonable accommodations for public viewing in most instances.
16 Therefore, an aircraft stored on the owner's private property is not considered on *public display*,
17 even if the storage site is visible from a public highway. Additionally, there is no requirement that
18 the aircraft display site be in California to qualify for this exemption.

19 To qualify as available for display to the public under any other situation not described above, an
20 individual must document the following:

- 21 • The aircraft is displayed in such a manner that the general public may reasonably be
22 assumed to be aware that public viewing is clearly invited; and
- 23 • There are reasonable accommodations to allow public viewing of the aircraft.

24 To qualify as available for display under *any* situation also means that:

- 25 • There must be a reasonable effort to make the general public aware of the display; and
- 26 • There must be reasonable viewing hours (making the aircraft available by appointment
27 only is not a clear invitation for viewing by the general public).

28 There are no specific requirements as to how an individual must advertise or publicize each display
29 in order to qualify for the exemption. For example, using a banner, newspaper, newsletter, flyers,
30 or social media to advertise a display may all be acceptable. The assessor will ultimately determine

³ Letter to Assessors (LTA) No. 2002/90.

⁴ Section 220.5(b)(3).

1 if a reasonable effort has been made to notify the general public of the display on a case by case
2 basis.

3 The number of days that the airplane must have been *available for display to the public* is at least
4 12 days during the 12-month period that immediately preceded the lien date for the year that the
5 exemption is claimed. To meet the display requirement, an aircraft must be displayed, or available
6 for display, for 12 periods, with each period being four or more hours during one 24-hour period.⁵

7 If the aircraft is airworthy, then at least six of the 12 displays of the aircraft must be:

- 8 • Flown, taxied, or otherwise moved to a location other than the normal storage location for
9 display to an organized group of persons, for an announced display to the general public,
10 or for permanent display at a museum.

11 However, if the aircraft is not airworthy and/or the aircraft is being restored, the 12 displays may
12 be any combination of either the previously stated type of displays or:

- 13 • Displayed in the normal storage location to an organized group of persons as part of an
14 announced display to the general public, or during posted daytime viewing periods of four
15 or more hours with public accessibility.

16 As used in this statute, *available* for public display includes instances where an aircraft is formally
17 scheduled for display at a qualifying site and the display is subsequently cancelled (for example,
18 due to rain). That cancelled date would count as a day the aircraft was available for display for
19 purposes of qualifying for the exemption.⁶

20 **PROSPECTIVE TREATMENT IN THE INITIAL QUALIFYING YEAR**

0902.10

21 A claimant may qualify for the Aircraft of Historical Significance Exemption for the initial year,
22 even if the display requirements were not met, if the aircraft was first made available for public
23 display less than 12 days prior to the lien date (for example, December 22). In order to qualify for
24 the exemption under these circumstances, the claimant indicates on the claim form that the aircraft
25 will be made available for public display at least 12 days during the 12-month period commencing
26 with the first day the property was made available for public display. In this situation, it is possible
27 for the same display dates to be used to meet the exemption requirements for both the initial
28 qualifying year and the subsequent year.

29 **AIRCRAFT USE**

0903.00

30 The Aircraft of Historical Significance Exemption does not allow the aircraft to be used for
31 *commercial purposes or general transportation*.⁷

⁵ LTA No. 89/84 suggests that the minimum number of hours would be four hours for each display date.

⁶ LTA No. 2002/90.

⁷ Section 220.5(b)(2).

COMMERCIAL PURPOSES**0903.05**

As used in this statute, *commercial purposes* means the conveyance of passengers or goods for any business reason or use of the aircraft for any revenue-producing activity. If an owner is depreciating an aircraft as business property or writing off the expenses related to the aircraft as business expenses, the aircraft is being used for commercial purposes and would not qualify for the exemption.

GENERAL TRANSPORTATION**0903.10**

As used in this statute, *general transportation* means flights of an aircraft from one place to another for the primary purpose of transporting passengers or goods from one location to another. To constitute general transportation, there must be flight from one place to another, rather than flights that originate and end in the same place with no intervening stop, as these types of flights are considered to be recreational flying. However, flights to and from historical aircraft shows or displays with stops or overnight layovers would not constitute general transportation. Recreational flying, maintenance-related flying, and flights necessary to maintain the owner's pilot's certificate would not constitute general transportation, unless the flights are primarily for the purpose of transporting goods or persons to another location.⁸

FILING REQUIREMENTS**0904.00****CLAIM FORM****0904.05**

The Board-prescribed BOE-260-B, *Claim for Exemption from Property Taxes of Aircraft of Historical Significance*, must be used when claiming this exemption. A claimant must provide all information required and answer all questions contained on the claim form.⁹ The owner of the aircraft must qualify and file for the exemption each year and a separate claim form must be filed for each aircraft if an individual owns multiple potentially qualifying aircraft. Section 259.11 provides:

The affidavit for the aircraft of historical significance exemption shall show that both the property and the owner meet all the requirements entitling the property to the exemption.

In order to qualify for the exemption each year, the claim form must be submitted to the assessor documenting the qualifying displays of the aircraft during the preceding calendar year.¹⁰ The claimant must sign the claim form under penalty of perjury and attach a certificate of attendance from the event coordinator of each event at which the aircraft was displayed to document that the aircraft was actually displayed on the date specified.¹¹ The assessor may require additional proof of information or answers provided on the claim form before allowing the exemption.¹² If at a later

⁸ LTA No. 2002/90.

⁹ Section 220.5(c).

¹⁰ If the aircraft was first made available for display less than 12 days prior to the lien date, see the section *Available for Display to the Public* discussed above.

¹¹ Sections 220.5(c) and 220.5(b)(3).

¹² Section 220.5(c).

date it is determined that the owner or aircraft did not meet the exemption qualifications, an escape assessment should be issued with any applicable interest and penalty added to the assessment.¹³

FILING FEE **0904.10**

Unlike other exemptions, the Aircraft of Historical Significance Exemption requires a fee of \$35 to be collected by the assessor with the initial claim for the exemption.¹⁴ The \$35 filing fee is payable only once per aircraft per county and is not required with each annual claim form filed thereafter in the same county.

An aircraft that has been receiving the exemption in one county and then changes its situs to another county must pay the \$35 fee again to the assessor in the new county when the initial claim form is filed in the new county. However, if an owner removes an aircraft from the taxing jurisdiction of a county and then returns the aircraft at a subsequent lien date to the same county, the fee is not required to be paid again for a subsequent claim form filed for the same aircraft.

FILING PERIOD **0904.15**

A claim for the Aircraft of Historical Significance Exemption must be filed annually with the assessor between the lien date and 5:00 p.m. on February 15 to receive 100 percent of the exemption for the ensuing fiscal year.¹⁵

LATE FILING **0904.20**

If a person claiming the Aircraft of Historical Significance Exemption fails to timely file the claim, but files on or before the following August 1 of the same year, the assessment will be reduced by an amount equal to 80 percent of the reduction that would have been allowed had the claim form been timely filed.¹⁶ No exemption is allowed for any claims filed after August 1, as there are no provisions in the law to allow retroactive filing for a prior year for a new claimant or one that has been receiving the exemption but inadvertently missed a filing.

Aircraft of Historical Significance Exemption		
Exemption Allowed:	100 Percent	80 Percent
Claim Filed:	On or before 5:00 p.m. February 15 of the year for which the exemption is being claimed.	After February 15, but on or before August 1 of the same year.
Reference:	Section 255	Section 276.5

¹³ Section 531.1.

¹⁴ Section 220.5(e).

¹⁵ Section 255.

¹⁶ Section 276.5.

Example 9-1**Historical Aircraft Exemption Claim Filing**

Assessed Value of Aircraft	\$200,000
Property Tax Rate	1%
Property Tax	\$2,000

Timely Filed on or Before February 15

Reduction in Assessed Value	\$200,000
Taxable Value	\$0
Property Tax Payable	\$0

Filed Late on or Before August 1

Reduction in Assessed Value	\$160,000 (\$200,000 x .80)
Taxable Value	\$40,000
Property Tax Payable	\$400

Filed Late After August 1

Reduction in Assessed Value	\$0
Taxable Value	\$200,000
Property Tax Payable	\$2,000

APPROPRIATION**0905.00**

No appropriation is made for the Aircraft of Historical Significance Exemption and the state will not reimburse any local agency for any loss in property tax revenue pursuant to this exemption.

CHAPTER 10: WORKS OF ART EXEMPTION

1000.00

Certain works of art that are made available for display in an art gallery or museum may qualify for exemption from property taxation pursuant to Revenue and Taxation Code¹ section 217. The artwork must meet the qualifications for the exemption each year and the claimant must file annually for the exemption. Unlike most exemptions, which are based on the status of the property as of the January 1 lien date, the Works of Art Exemption is based on the property's display status during the 12-month period immediately preceding the lien date.

The Works of Art Exemption applies to artwork that is generally assessable based on its January 1 lien date status, except that it has been loaned to a publicly owned art gallery or museum or to a museum that is regularly open to the public and which is operated by a nonprofit organization that qualifies for exemption pursuant to section 23701d.² Assessable works of art include, but are not limited to, works of art displayed in a for-profit museum or gallery, or those displayed in a business or office as décor.

Works of art owned by a public art gallery, public museum, or a welfare exempt nonprofit organization are not exempt under the Works of Art Exemption, but are exempt under article XIII, sections 3(a), 3(b), or 4(b) of the California Constitution.³ Works of art owned by individuals or trusts in which the beneficiaries are individuals and used for private enjoyment are exempt under article XIII, section 3(m) of the California Constitution as household furnishings.

This exemption does not apply to any works of art loaned by a person who holds artwork primarily for purposes of sale; however, such artwork may be exempt as business inventory.⁴

DEFINITION OF WORKS OF ART

1001.00

The following works of art are eligible for the Works of Art Exemption:⁵

1. Original paintings in oil, mineral, water, vitreous enamel, or other colors, pastels, original mosaics, original drawings, and sketches in pen, ink, pencil, or watercolors, or works of the free fine arts in any other media including applied paper and other materials, manufactured or otherwise, that are used on collages, artists' proof etchings unbound, and engravings and woodcuts unbound, lithographs, or prints made by other hand transfer processes unbound, or original sculptures or statuary.
- *Sculpture* and *statuary* shall include professional productions of sculptors only whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, metal, or other materials, or whether cut, carved, or otherwise wrought by hand from the solid

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

² Section 23701d provides state income tax exemption for certain nonprofit organizations.

³ Property owned by the state or local government and property owned by a nonprofit organization that qualifies for the welfare exemption pursuant to section 214.

⁴ Section 217(d); Property Tax Rule 133.

⁵ Section 217(a).

block or mass of marble, stone, alabaster, or from metal, or other materials; or cast in bronze or other metal or substance, or from wax or plaster, or constructed from any material or made in any form as the professional productions of sculptors only.

- *Original* when used to modify the words *sculptures* and *statuary* shall include the original work or model and the first 10 castings, replicas, or reproductions made from the sculptor's original work or model with or without a change in scale, regardless of whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed.
- *Painting, mosaic, drawing, work of the free fine arts, sketch, sculpture, and statuary* shall not include any articles of utility, articles designed for industrial use, or any articles that are made wholly or in part by stenciling or any other mechanical process.
- *Etchings, engravings, woodcuts, lithographs, or prints made by other hand transfer processes* shall include only works that are printed by hand from plates, stones or blocks etched, drawn, or engraved with hand tools, and do not include works that are printed from plates, stones or blocks etched, drawn or engraved by photochemical or other mechanical processes.

2. Original works of the free fine arts that were not described previously in item 1 are subject to regulations, as the Board of Equalization may prescribe, to prove that the article represents some school, kind, or medium of the free fine arts. *Original works of the free fine arts* shall not include any article of utility or any article designed for industrial use.

QUALIFICATIONS

1002.00

The Works of Art Exemption applies only if the artwork is available for display in:

- A publicly owned art gallery or museum; or
- A museum that is regularly open to the public and that is operated by a nonprofit organization that qualifies for exemption pursuant to section 23701d.

A publicly owned art gallery or museum is one that is owned by a city, county, state, or federal government, or other governmental entity. Unlike nonprofit art galleries and museums, this type of venue is not required to be regularly open to the public.

AVAILABLE FOR DISPLAY TO THE PUBLIC

1002.05

One of the primary requirements to qualify for the Works of Art Exemption is that works of art displayed in a nonprofit art gallery or museum must be available for public display for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.⁶ *Available for display* requires actual display or documented willingness to display for a specified period. Viewing by appointment only is insufficient and does not meet this requirement.

⁶ Section 217(e).

In order to qualify for the Works of Art Exemption, the artwork must be *available for display to the public* as follows:

- The artwork must be displayed in such a manner that the general public may reasonably be assumed to be aware that public viewing is clearly invited;
- Reasonable accommodations must be made to allow public viewing of the artwork;
- A reasonable effort must be made to make the general public aware of the display;
- There must be reasonable viewing hours (making the artwork available by appointment only is not acceptable); and
- It is not required that the location of the display be in California.

If there is a question as to the days the artwork was displayed or available for display, the assessor must consider the actual intent of the owner and make a determination on a case-by-case basis as to whether the display requirements have or have not been met. For example, if an owner entered into an agreement with an art gallery or museum to have the owner's artwork displayed for at least 90 days, but the museum did not actually have the item out for display to the public for all 90 days due to space limitation or another reason, the assessor may deem that the display requirements for the exemption have been met.

REGULARLY OPEN TO THE PUBLIC

1002.10

Another requirement of this exemption is that the nonprofit art gallery or museum in which the artwork is displayed must be regularly open to the public. Section 217(f) defines *regularly open to the public* as an art gallery or museum open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed. As stated previously, this requirement does not apply to publicly owned art galleries or museums.

PROSPECTIVE TREATMENT IN THE INITIAL QUALIFYING YEAR

1002.15

Provided the required certifications are made, a claimant may qualify for the Works of Art Exemption for the initial year, even if the display requirements were not met, under the following circumstances:

- When the artwork was first made available for public display less than 90 days prior to the lien date; or
- When the art gallery or museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during that period.

If the artwork was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the claimant certifies in writing that the artwork will be made available for public display for at least 90 days during the 12-month period commencing with the

first day the artwork was made available for public display. In this situation, it is possible for the same display dates to be used to meet the exemption requirements for both the initial qualifying year and the subsequent year.

If the art gallery or museum has not been open for the required time frame, the exemption may be granted if the director or other officer of the museum certifies in writing that the museum will be open for the required timeframe during the 12-month period beginning with the date the museum was first opened.⁷

In such instances of prospective treatment in the initial qualifying year, the assessor may request additional information at a later date to verify compliance with exemption requirements. If it was certified that the work(s) of art would be made available or that the art gallery or museum would be open for the required timeframe, but the artwork was not made available or the art gallery or museum was not open as certified, the exemption shall be cancelled and an escape assessment may be made as provided by section 531.1.⁸

FILING REQUIREMENTS

1003.00

CLAIM FORM

1003.05

The Board-prescribed BOE-260, *Certificate and Affidavit for Exemption of Work of Art*, must be used when claiming this exemption. A claimant must provide all information requested on the claim form on an annual basis and certify under penalty of perjury of its accuracy. The assessor may also require other proof of the facts stated on the claim form before allowing the exemption.⁹ The bottom section of the claim form is to be completed and signed by the director or other officer of the art gallery or museum in which the artwork is displayed and will serve as certification that the artwork was available for public display for the required time period.

The claimant may complete one claim form for the Works of Art Exemption for multiple works of art displayed in the same museum, listing the following information on an attachment:

- The nature of each work of art (such as, original painting, original sculpture, work of the free fine arts, etc.); and
- A description of each work of art, and the process by which it was created, in sufficient detail to identify it.

Similarly, the director or officer of the museum may list the dates multiple works of art were on display on an attachment to the claim form, but the museum personnel must sign each attachment, as well as the claim form.

⁷ Section 217(f).

⁸ Section 217 (g).

⁹ Section 217(b).

FILING PERIOD**1003.10**

A claim for the Works of Art Exemption must be filed annually with the assessor between the lien date and 5:00 p.m. on February 15 to receive 100 percent of the exemption for the ensuing fiscal year. Since there is no late filing provision for the Works of Art Exemption, the exemption is waived for the current year if the claimant fails to file by February 15.¹⁰

Works of Art Exemption		
Exemption Allowed:	100 Percent	None
Claim Filed:	On or before 5:00 p.m. February 15 of the year for which the exemption is being claimed.	No statute allows for late filing after February 15.
Reference:	Section 217(c)	N/A

APPROPRIATION**1004.00**

No appropriation is made for the Works of Art Exemption and the state will not reimburse any local agency for any loss in property tax revenue pursuant to this exemption.

¹⁰ Sections 217(c), 255, and 260.

CHAPTER 11: 1100.00 EXHIBITION EXEMPTION

Personal property that is brought into the state on a temporary basis for exhibition purposes may qualify for the Exhibition Exemption pursuant to Revenue and Taxation Code¹ section 213. Owners must file for the exemption if the property is located in California as of the January 1 lien date. Property that is brought into the state for exhibition purposes after the lien date, but which is removed prior to the next succeeding lien date, is not assessable in California; therefore, an exemption filing is not required.

QUALIFICATIONS 1101.00

The Exhibition Exemption applies only if *all* of the following conditions are satisfied:

- The property is brought into California exclusively for use or exhibition at any exposition, fair, carnival, or public exhibit of literary, scientific, educational, religious, or artistic works in California and is used only for these purposes while in this state;
- The property is intended to be removed from California following its use or exhibition here; and
- The property is subject to taxation in another state or country while in California, and all taxes due in the other state or country have been paid when the exemption is claimed.

There are no requirements as to who must own the property in order for it to qualify for the exemption. The property may be owned by an individual or an organization, whether nonprofit or for-profit.

FILING REQUIREMENTS 1102.00

CLAIM FORM 1102.05

The Board-prescribed BOE-270-AH, *Exhibition Exemption Claim From Property Taxes*, must be used when claiming this exemption. On an annual basis, a claimant must provide all information required, answer all questions contained in the claim form, and certify under penalty of perjury the requirements of the exemption have been met.² In addition, the assessor may request documentation from the claimant to verify that all taxes due on the property in another state or county have been paid.

FILING PERIOD 1102.10

A claim for the Exhibition Exemption must be filed annually with the assessor between the January 1 lien date and 5:00 p.m. on February 15 to receive the full exemption for the ensuing fiscal year.

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

² Section 259.

LATE FILING**1102.15**

If a claim for the Exhibition Exemption is filed after February 15, but on or before the next succeeding lien date, 90 percent of the exemption may be allowed, subject to a maximum of \$250 for tax, penalty, and interest. If the claim is filed after the next succeeding lien date, 85 percent of the exemption may be allowed, subject to the same \$250 maximum.³

Exhibition Exemption			
Exemption Allowed:	100 Percent	90 Percent	85 Percent
Claim Filed:	On or before 5:00 p.m. February 15 of the year for which the exemption is being claimed.	After February 15 but on or before January 1 of the next year.	Any time after January 1 of the next year.
Reference:	Section 255(a)	Section 270(a)(1)	Section 270(a)(2)

APPROPRIATION**1103.00**

No appropriation is made for the Exhibition Exemption and the state will not reimburse any local agency for any loss in property tax revenue pursuant to this exemption.

³ Section 270.

APPENDIX A: GLOSSARY OF TERMS

1700.00

TERM	
Aircraft	Also referred to as <i>general aircraft</i> . Any contrivance used or designed for the navigation of or for flight in the air which has been flown at least once, other than a parachute or similar emergency safety device, a rocket or missile, or a certificated aircraft or scheduled air taxi.
Assessed Value	The taxable value of a property against which the tax rate is applied.
Assessee	Person who owns, claims, possesses, or controls the property on the lien date.
Lien Date	All taxable property (both state and locally assessed) is assessed annually for property tax purposes as of 12:01 a.m. on January 1, which is called the lien date. It is referred to as the lien date because on this date the taxes become a lien against all real property assessed on the secured roll.
Nonprofit	An organization that is not seeking or producing a profit and its net earnings do not benefit any private person.
Personal Property	All property except real property.
Property	Property includes all matters and things—real, personal, and mixed—that are capable of private ownership [section 103].
Taxable Value	For real property subject to article XIII A of the California Constitution (Proposition 13), the base year value adjusted for any given lien date as required by law or the full cash value for the same date, whichever is less, as set forth in section 51(a). For personal property, the full cash value (market value) on the lien date each year.