



STATE BOARD OF EQUALIZATION  
450 N STREET, SACRAMENTO, CALIFORNIA  
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082  
TELEPHONE (916) 324-2642  
FAX (916) 323-3387  
www.boe.ca.gov

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Executive Director

January 29, 2002

RE: **Qualification for the Disabled Veterans' Exemption.**

Dear Mr. \_\_\_\_\_ :

This is in reply to your letter dated November 27, 2001 to Assistant Chief Counsel Larry Augusta regarding a question of residency in your continued qualification for the disabled veterans' exemption. As discussed further below, it is our opinion, based upon the information that you have provided to us, that you meet the "principal place of residence" requirement of Revenue and Taxation Code section 205.5, subdivision (a)<sup>1</sup> and, thus, continue to qualify for the disabled veterans' exemption for your home in \_\_\_\_\_ County.

**Factual Background**

Based upon your letter and the copies of documents attached to the letter, (1) you and your wife are registered to vote in California, (2) you have a vehicle registered in California, (3) California is the state of issuance of your driver's license, and (4) you pay California income taxes, filing a California Form 540 resident income tax return. Additionally, you live in California at least six months out of the year. However, since you are travelling on a regular basis, you often have your mail forwarded to Arizona, where a bookkeeper or accountant located there pays your bills.

Per a telephone conversation with the exemptions unit of the \_\_\_\_\_ County Assessor's Office, you also own a home in \_\_\_\_\_ County, Arizona and have an Arizona driver's license, an Arizona bank account, and a vehicle registered in Arizona. Additionally, the United States Department of Veterans Affairs lists your Arizona address in its records and correspondence to you from the Assessor's Office was returned noting your Arizona address. Finally, you have applied for and received the disabled veterans' exemption on your home since 1991.

**Law and Analysis**

For a claimant to qualify for the disabled veterans' exemption, section 205.5, subdivision (a) provides that the property must constitute an individual's "principal place of residence." It is

<sup>1</sup> Unless otherwise indicated, all statutory references are to the Revenue and Taxation Code.

been our long-standing position that a "principal residence" or "principal place of residence" is considered to be equivalent to domicile, that place where a person has his or her true, fixed, and permanent home and to which that individual has the intention of returning to, whenever absent.<sup>2</sup> Factors to consider when determining a person's principal residence or domicile, in addition to where the owner of the property resided during the year, include such indices as (1) the filing of income tax returns in the state, (2) the state of voter registration, (3) the state of vehicle registration, and (4) the state of issuance of a driver's license.

Although you state that you live in California (i.e., \_\_\_\_\_ County) at least six months out of the year, there is no such requirement under California property tax law (i.e., a six-month rule) in order to qualify a home as a principal place of residence. Under California income tax law, Revenue and Taxation Code section 17016 provides that individuals who spend an aggregate of more than nine months of the year in California are presumed to be residents of the state.<sup>3</sup> However, there is no presumption to the opposite under California income tax law which defines the minimum amount of time necessary in which to establish residency. Regardless, the principles of California income tax law, while informative, are not dispositive in determining residency or other issues under California property tax law.

Based upon the information that you have provided to us, you and your wife are registered to vote in California, you have a vehicle registered in California, California is the state of issuance of your driver's license, and you live in California at least six months out of the year. Further, you pay income taxes in California, filing a California resident income tax return. As stated above, these are the types of indices to be considered when determining one's principal residence or domicile. On the other hand, you own a home in Arizona, you have an Arizona driver's license, you have a vehicle registered in Arizona, and you have an Arizona bank account. Your California mail is either returned to the sender, listing your Arizona address, or forwarded directly to Arizona. Additionally, the Department of Veterans Affairs list your Arizona address in its records.

Looking at these facts as a whole, there is substantial evidence to conclude that California and, more specifically, \_\_\_\_\_ County is your place of residency and domicile, as California is where you spend the majority of each year, California is where you are registered to vote, and you file a California resident income tax return. As a result, you meet the "principal place of residence" requirement of section 205.5, subdivision (a). If, as you have stated, you have otherwise remained qualified for the disabled veterans' exemption (i.e., a continuing 100% disability rating), then your disabled veterans' exemption should be reinstated by the local assessor's office. It is well understandable, based upon the competing facts listed above, that the Assessor's Office cancelled your exemption for the most recent tax year, as their correspondence to you was returned noting your Arizona address and the Department of Veterans Affairs lists your Arizona address in its records. It is unclear why the Department of Veterans Affairs lists your Arizona address in its records when you have been applying for and receiving the disabled veterans' exemption on your \_\_\_\_\_ home since 1991. You may wish to contact that office to substitute your California address in order to avoid any confusion in future years.

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<sup>2</sup> See the attached Property Tax Annotation No. 505.0078 and Page 15 of Letter to Assessors No. 82/50, which is referred to in that annotation.

<sup>3</sup> Revenue and Taxation Code section 17014, subdivision (a)(1) defines a resident as an "individual who is in this state for other than a temporary or transitory purpose." Subdivision (c) of that statute provides that "[a]ny individual who is a resident of this state continues to be a resident even though temporarily absent from the state."

The views expressed in this letter are advisory in nature only; they represent the analysis of the legal staff of the Board of Equalization based on present law and the facts set forth herein, and are not binding upon the County Assessor's Office, as that office is not under the jurisdiction of the State Board of Equalization. Qualification for this exemption, as well as other exemptions from property taxation, are subject to determination by the local assessor's office. As a result, you may wish to contact the County Assessor's Office to ascertain whether it is in agreement with the analysis and conclusions set forth herein.

Very truly yours,

*/s/ Anthony S. Epolite*

Anthony S. Epolite  
Tax Counsel

Attachment: Annotation 505.0078  
Letter to Assessors No. 82/50, Page 15

ASE:eb

Prop/prec/genexemp/02/02ase.doc

cc:

County Assessor  
Attn: Exemptions Unit

Mr. David Gau, MIC:63  
Chief, PPSD, MIC:64  
Mr. Charlie Knudsen, MIC:62  
Ms. Jennifer Willis, MIC:70