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January 20, 1989

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Division of Assessment Standards
SACRAMENTO

Dear Mr.

This is in response to your December 18, 1988, letter to Secretary of State March Fong Eu concerning Proposition 93, Veterans' Property Tax Exemption, on the November 8, 1988, Ballot. As she indicated in her January 3, 1989, letter to you, your letter was forwarded to this Board for consideration and response.

In your letter, you state that your understanding of Proposition 93 is that it would enact the following general provisions:

- "1. Exempts up to \$1,000.00 of the assessed value of real property from property tax if the owner is an honorably discharged member of the Armed Forces or the parent or unmarried spouse of a deceased veteran.
- "2. Eliminates the requirement of the old law which required that the veteran must have been a California resident upon entry into the Armed Forces.
- "3. Permits this exemption to be applied on second homes, boats and airplanes."

As stated in the Summary Prepared by the Attorney General, under existing state law, the State Constitution (Article XIII, Section 3(o)) exempts up to \$1,000 of the assessed value of real property from the property tax if the owner is an honorably discharged member of the Armed Forces. (1, above.) "This measure deletes the additional requirement that the veteran must have been a California resident upon entry into the Armed Forces or on November 3, 1964." (2, above, emphasis added.) Such was called for because of two recent United States Supreme Court decisions, Hooper v. Bernalillo County Assessor (1985) and Attorney General of New York v. Eduardo Sota-Lopez (1986), which struck down as unconstitutional similar residence requirements imposed by other states as a condition for state-offered benefits. See the Argument in Favor of Proposition 93 on page 61 of the November 8, 1988,

Bill (handwritten initials)

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Ballot Pamphlet in this regard. The Analysis by the Legislative Analyst following the Summary is to the same effect:

"Proposal

"This constitutional amendment deletes the residency requirements for the veterans' property tax exemption. Thus, a veteran . . . who claims the exemption would not need to meet the residency requirements in order to qualify for the exemption."

Accordingly, upon the enactment of Proposition 93 by the Electorate, Article XIII, Section 3(o) states:

"Section 3. The following are exempt from property taxation:

* * *

"(o) Property in the amount of \$1,000 of a claimant who--

"(1) is serving in or has served in and has been discharged under honorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine (Revenue Cutter) Service; and--

"(2) served either

"(i) in time of war, or

"(ii) in time of peace in a campaign or expedition for which a medal has been issued by Congress, or

"(iii) in time of peace and because of a service-connected disability was released from active duty; and

"(3) resides in the State on the current lien date;

"An unmarried person who owns property valued at \$5,000 or more, or a married person, who, together with the spouse, owns property valued at \$10,000 or more, is ineligible for this exemption.

"If the claimant is married and does not own property eligible for the full amount of the exemption, property of the spouse shall be eligible for the unused balance of the exemption.

* * * "

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Finally, in the Fiscal Effect section of the Analysis by the Legislative Analyst it is stated that relatively few persons claim the veterans' exemption because a homeowner is not allowed to claim both it and the homeowners' exemption on the same property; and that as a result, the veterans' exemption is primarily claimed on boats, airplanes and second homes. (3, above.)

While the residency requirements are no longer a consideration for purposes of the veterans' exemption, however, other requirements therefor remain unchanged, including that of the next-to-last paragraph of Section 3(o):

"An unmarried person who owns property valued at \$5,000 or more, or a married person, who, together with the spouse, owns property valued at \$10,000 or more, is ineligible for this exemption."

Thus, while the veterans' exemption may be claimed on second homes, in most, if not all instances in which such occurs, the value of the homes/property of the unmarried veteran would exceed \$5,000 and the value of the homes/property of the married veteran and spouse would exceed \$10,000, thereby making the exemption unavailable. Inquiry of the County Assessor's office disclosed that the value of your home/property in County by itself exceeds these \$5,000 and \$10,000 amounts. Accordingly, were you to file a claim for the veterans' exemption for your home/property in County, it is likely that the claim would not be granted for this reason.

Finally, there appears to have been some confusion between the veterans' exemption, hereinabove discussed, and the disabled veterans' exemption, a separate exemption which follows from Article XIII, Section 4(a) of the California Constitution:

"Section 4. The Legislature may exempt from property taxation in whole or in part:

"(a) The home of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled unless the home is receiving another real property exemption.

* * * "

and from Revenue and Taxation Code sections 205.5 and 277 et seq. Like the veterans' exemption, a person seeking the

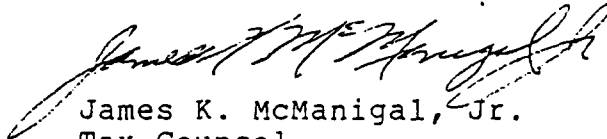
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disabled veterans' exemption must file a claim therefor. However, the requirements for the disabled veterans' exemption are, for the most part, separate and distinct from those for the veterans' exemption. The common factor to both is that for purposes of the disabled veterans' exemption, section 205.5 uses part of the same definition of "veteran" as that of section 205:

" (b) For purposes of this section, 'veteran' is defined 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."

That disability requirement, however, is peculiar to the disabled veterans' exemption.

Very truly yours,



James K. McManigal, Jr.
Tax Counsel

JKM:cb
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cc:

County Assessor

County Tax Collector