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No. 2012/014

February 24, 2012

TO COUNTY ASSESSORS:

DISABLED VETERANS' EXEMPTION

Effective January 1, 2012, two legislative bills made clarifying non-substantive changes to several Revenue and Taxation Code¹ sections relating to the disabled veterans' exemption.

*Assembly Bill 188*² amends section 205.5 to expressly provide for the continuation of the exemption on a principal place of residence for an unmarried surviving spouse claimant who is confined to a hospital or other care facility, if he or she resided at the dwelling immediately prior to that confinement. Whether such absence from the residence is temporary or extends beyond one year, the property remains eligible for the exemption provided the residence is not rented or leased to a third party. A family member or relative who resides at the property rent-free is not considered a third party.

This bill also adds paragraph (5) to section 279(b), which lists the events that terminate exemption eligibility, to clarify that the exemption terminates when the unmarried surviving spouse claimant remarries.

Assembly Bill 188 also amends section 279 to consolidate into one section the qualifying and disqualifying events of the exemption making this area of the law more reader-friendly. The amendment also clarifies that the property becomes eligible as of the date of a specific event, which allows for the proration of the exemption.

*Senate Bill 947*³ amends section 276.2 to allow additional time to file a disabled veterans' exemption claim when property becomes eligible after the lien date. Currently, section 276.2 states that a (timely) claim must be filed "on or before the lien date in the calendar year next following the calendar year in which the property became eligible." For property that becomes eligible late in the calendar year, for instance on December 28, this may not be sufficient time to gather, complete, and submit the paperwork to the county assessor. This amendment clarifies that the claimant must file by the following lien date or within 90 days after eligibility, whichever is later.

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

² Stats. 2011, ch. 202.

³ Stats. 2011, ch. 351.

Senate Bill 947 also amends section 278 to specify that the disabled veterans' exemption notice,⁴ shall be mailed annually prior to the lien date to all claimants who received the exemption in the immediately preceding year. This notice informs claimants of the disqualifying conditions of the exemption and of the annual filing requirements for those claiming the low-income disabled veterans' exemption.

Section 279 was also amended to delete language referencing the lien date throughout the text as this exemption is not lien-date driven. The amendment would make section 279 consistent with sections 276.2 and 276.3, which provide that the exemption applies as of the eligibility date and terminates as of the date the property no longer qualifies. Additionally, the phrase "claimant" or "qualified claimant" replaces language throughout section 279 where appropriate to reference either the veteran or the surviving spouse claimant.

A copy of the relevant portions of amended sections 205.5, 276.2, 278, and 279 is enclosed with changes denoted in strikeout/underscore format. The Board's legislative analysis on these bills may be found at:

AB 188 - <http://www.boe.ca.gov/legdiv/pdf/0188abenrolledrmk.pdf>

SB 947 - <http://www.boe.ca.gov/legdiv/pdf/0947sbenr11rmk.pdf>

If you have any questions regarding the disabled veterans' property tax exemption, please contact our County-Assessed Properties Division at 916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:mlw
Enclosure

⁴ Board-prescribed form BOE-261-GNT, *Change of Eligibility Report*.

Section 205.5(c)(3) of the Revenue and Taxation Code is added to read (effective January 1, 2012):

205.5(c)(3) Beginning with the 2012-13 fiscal year and for each fiscal year thereafter, property is deemed to be the principal place of residence of the unmarried surviving spouse of a deceased veteran, who is confined to a hospital or other care facility, if that property would be the unmarried surviving spouse's principal place of residence were it not for his or her confinement to a hospital or other care facility, provided that the residence is not rented or leased to a third party. For purposes of this paragraph, a family member who resides at the residence is not considered to be a third party.

Section 276.2(a) of the Revenue and Taxation Code is amended to read (effective January 1, 2012):

276.2. (a) If property becomes eligible for the disabled veterans' exemption as described in Section 205.5 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 later of 90 days after the date on which the property became eligible or on or before the next following lien date, 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.

Section 278 of the Revenue and Taxation Code is amended to read (effective January 1, 2012):

278. ~~For the 1977-78 fiscal year and thereafter, county assessors~~ Prior to the lien date, the assessor shall ~~each year~~ annually mail a notice to all ~~disabled veterans~~ claimants who received the disabled veterans' exemption in the immediately preceding year, except where such person has transferred title in the property since the immediately preceding lien date. The notice shall inform the taxpayer of the requirements that must be met in order to be eligible for the exemption, of the penalties if the taxpayer allows the exemption to continue when he or she is not eligible for the exemption, and of his or her duty to inform the assessor when he or she is no longer eligible for the exemption.

Section 279 of the Revenue and Taxation Code is amended to read (effective January 1, 2012):

279. (a) ~~A~~ Subject to the provisions regarding cancellations and the limitation periods on refunds, property becomes eligible for the disabled veterans' property tax exemption, as described in Section 205.5, as of:

(1) The effective date of a disability rating, as determined by the United States Department of Veterans Affairs, that qualifies the claimant for the exemption.

(2) The date a qualified claimant purchases a property that constitutes the principal place of residence, provided residency is established within 90 days of purchase.

(3) The date a qualified claimant establishes residency at a property owned by the claimant or the spouse, as specified in subdivision (a) of Section 205.5.

(4) The date the veteran died, as a result of a service-connected injury or disease, in the case where the unmarried surviving spouse is the claimant.

(b) A claim for the disabled veterans' property tax exemption ~~described in Section 205.5~~

filed by ~~the owner of a dwelling~~ a qualified claimant, once granted, shall remain in continuous effect unless any of the following occurs:

(1) Title to the property changes.

(2) The owner does not occupy the dwelling as his or her principal place of ~~residence on the lien date~~ residence.

(A) If ~~a veteran is, on the lien date,~~ the claimant is confined to a hospital or other care facility but principally resided at a dwelling immediately prior to that confinement, the ~~veteran claimant~~ will be deemed to occupy that same dwelling as his or her principal place of residence on the lien date, provided that the dwelling has not been rented or leased as described in Section 205.5.

(B) If a person receiving the disabled veterans' exemption is not occupying the dwelling ~~on the lien date~~ because the dwelling was damaged in a misfortune or calamity, the person will be deemed to occupy that same dwelling as his or her principal place of ~~residence on the lien date,~~ residence, provided the person's absence from the dwelling is temporary and the person intends to return to the dwelling when possible to do so. Except as provided in subparagraph (C), when a dwelling has been totally destroyed, and thus no dwelling exists ~~on the lien date~~, the exemption provided by Section 205.5 is not applicable until the structure has been replaced and is occupied as a dwelling.

(C) A dwelling that was totally destroyed in a disaster for which the Governor proclaimed a state of emergency, that qualified for the exemption provided by Section 205.5 and has not changed ownership since the disaster, will be deemed occupied by the person receiving a disabled veterans' exemption ~~on the lien date~~ provided the person intends to reconstruct a dwelling on the property and occupy the dwelling as his or her principal place of residence when it is possible to do so.

(3) The property is altered so that it is no longer a dwelling.

(4) The veteran is no longer disabled as defined in Section 205.5.

(5) The unmarried surviving spouse claimant remarries.

~~(b)~~

(c) The assessor of each county shall verify the continued eligibility of each person receiving a disabled veterans' exemption, and shall provide for a periodic audit of, and establish a control system to monitor, disabled veterans' exemption claims.