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No. 2017/003

January 13, 2017

TO COUNTY ASSESSORS:

### DISABLED VETERANS' EXEMPTION

Senate Bill 1458<sup>1</sup> amends two aspects of the Disabled Veterans' Property Tax Exemption. The first expands eligibility for the exemption to include a person who has been discharged under "other than dishonorable conditions"; however, that person must also be eligible for federal veterans' health and medical benefits as determined by the United States Department of Veterans Affairs (USDVA). The second change contains technical provisions that allow the assessor to process assessment roll corrections that relate to the Disabled Veterans' Exemption within eight years after making the assessment being corrected.

#### *Other Than Dishonorable Conditions*

Existing law authorizes the Legislature to exempt, partially or fully from property tax, the home of a disabled veteran if the veteran's service-connected injury or disease is rated 100 percent disabling or if the veteran is being compensated at the 100 percent rate due to unemployability. Furthermore, the exemption is extended to the unmarried surviving spouse of any qualified veteran, including a veteran who died while on active duty in military service.

Prior to this legislation, the Disabled Veterans' Exemption of Revenue and Taxation Code section 205.5<sup>2</sup> cross referenced section 3(o) of article XIII of the California Constitution in defining a qualified veteran for the exemption as a person who, among other things, has served in and has been discharged under honorable conditions from military service. Section 205.5 was amended by SB 1458 to expand the eligibility of the Disabled Veterans' Exemption by changing the requirement that a veteran's character of discharge from military service be under "honorable" conditions to a lower threshold of under "other than dishonorable" conditions. As of January 1, 2017,<sup>3</sup> an assessor will now be able to grant exemption to a veteran with an "other than honorable" discharge, provided the USDVA has determined the veteran is eligible for federal health and medical benefits, and provided all the other requirements of the exemption are met. Counties may want to review previously denied claims because of the "character of discharge" of the veteran, and reach out to those veterans who now may qualify for the exemption.

The U.S. Department of Defense separates its personnel from active service by formally discharging them under one of five different characters of discharge from military service. The following table shows the exemption eligibility for each of the categories:

<sup>1</sup> Stats. 2016, ch. 871.

<sup>2</sup> All statutory references are to the Revenue and Taxation Code unless otherwise specified.

<sup>3</sup> No retroactive exemption for periods prior to January 1, 2017 may be granted.

SEPARATION STATUS	ELIGIBILITY PRIOR TO JANUARY 1, 2017	ELIGIBILITY AS OF JANUARY 1, 2017
Honorable Discharge	Yes	Yes
General Discharge (Under Honorable Conditions)	Yes	Yes
Other Than Honorable Discharge	No	Yes
Bad Conduct Discharge	No	Yes
Dishonorable Discharge	No	No

### ***Roll Correction***

Section 4831.1 is added to extend the time for correcting the roll related to the Disabled Veterans' Exemption from four to eight years after the assessment was made.<sup>4</sup> Although recent legislation<sup>5</sup> provided for refunds of taxes paid up to eight years for Disabled Veterans' Exemption claimants, that legislation lacked provisions to allow the assessor to use their existing roll correction process as the administrative mechanism to provide the additional refunds. Therefore, assessors remained constrained to four years of roll corrections in accordance with section 4831. If claimants were seeking the Disabled Veterans' Exemption for more than four years prior, they were required to file a separate claim for a refund with the county board of supervisors with necessary coordination between several county agencies to calculate, authorize, and issue a refund check. SB 1458 now provides more administrative ease in processing refunds for the county and the claimant.

Other statutes affected by this bill include amending section 5097(a)(4) and adding section 5097.3 which are related to the administrative process used by various counties to issue a property tax refund for a roll correction.

Enclosed is copy of the statute amendments, in strikeout and italicized format, affected by SB 1458. If you have any questions regarding these amendments related to the Disabled Veterans' Exemption, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ Dean R. Kinnee

Dean R. Kinnee  
Deputy Director  
Property Tax Department

DRK:mlw  
Enclosure

<sup>4</sup> An "assessment is made" upon delivery of the local roll to the county auditor. Section 616 requires the assessor to complete the roll on or before July 1 and section 617 requires the assessor to deliver the roll to the auditor as soon as it is complete.

<sup>5</sup> Senate Bill 1113 added section 5097(a)(4), Stats. 2014, ch. 656, effective January 1, 2015.

Section 205.5 of the Revenue and Taxation Code as amended by Ch. 871, Stat. 2016 (SB 1458):

205.5. (a) Property that constitutes the principal place of residence of a veteran, that is owned by the veteran, the veteran's spouse, or the veteran and the veteran's spouse jointly, is exempted from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars (\$100,000), as adjusted for the relevant assessment year as provided in subdivision (h), if the veteran is blind in both eyes, has lost the use of two or more limbs, or if the veteran is totally disabled as a result of injury or disease incurred in military service. The one hundred thousand dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), as adjusted for the relevant assessment year as provided in subdivision (h), in the case of an eligible veteran whose household income does not exceed the amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(b) (1) For purposes of this section, "veteran" means either of the following:

~~(A) A veteran as specified in subdivision (e) of Section 3 of Article XIII of the California Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.~~

*A person who is serving in or has served in and has been discharged under other than dishonorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, and served either in time of war or in time of peace in a campaign or expedition for which a medal has been issued by Congress, or in time of peace and because of a service-connected disability was released from active duty, and who has been determined by the United States Department of Veterans Affairs to be eligible for federal veterans' health and medical benefits.*

(B) Any person who would qualify as a veteran pursuant to subparagraph (A) except that he or she has, as a result of a service-connected injury or disease, died while on active duty in military service. The United States Department of Veterans Affairs shall determine whether an injury or disease is service connected.

(2) For purposes of this section, property is deemed to be the principal place of residence of a veteran, disabled as described in subdivision (a), who is confined to a hospital or other care facility, if that property would be that veteran'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 a third party.

(c) (1) Property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a deceased veteran is exempt from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars (\$100,000), as adjusted for the relevant assessment year as provided in subdivision (h), in the case of a veteran who was blind in both eyes, had lost the use of two or more limbs, or was totally disabled provided that either of the following conditions is met:

(A) The deceased veteran during his or her lifetime qualified for the exemption pursuant to subdivision (a), or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977.

(B) The veteran died from a disease that was service connected as determined by the United States Department of Veterans Affairs.

The one hundred thousand dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), as adjusted for the relevant assessment year as provided in subdivision (h), in the case of an eligible unmarried surviving spouse whose household income does not exceed the amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(2) Commencing with the 1994–95 fiscal year, property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran as described in subparagraph (B) of paragraph (1) of subdivision (b) is exempt from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars (\$100,000), as adjusted for the relevant assessment year as provided in subdivision (h). The one hundred thousand dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), as adjusted for the relevant assessment year as provided in subdivision (h), in the case of an eligible unmarried surviving spouse whose household income does not exceed the amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(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 a third party.

(d) As used in this section, “property that is owned by a veteran” or “property that is owned by the veteran’s unmarried surviving spouse” includes all of the following:

(1) Property owned by the veteran with the veteran’s spouse as a joint tenancy, tenancy in common, or as community property.

(2) Property owned by the veteran or the veteran’s spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran’s spouse, or both the veteran and the veteran’s spouse.

(4) Property owned by the veteran’s unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran’s unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran’s unmarried surviving spouse when the veteran, or the veteran’s spouse, or the veteran’s unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(e) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less, or concentric contraction of the visual field to 5 degrees or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Department of Veterans Affairs or the military service from which the veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(f) An exemption granted to a claimant pursuant to this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the California Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted pursuant to this section; provided, that if two or more veterans qualified pursuant to this section coown a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(g) Commencing on January 1, 2002, and for each assessment year thereafter, the household income limit shall be compounded annually by an inflation factor that is the annual percentage change, measured from February to February of the two previous assessment years, rounded to the nearest one-thousandth of 1 percent, in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(h) Commencing on January 1, 2006, and for each assessment year thereafter, the exemption amounts set forth in subdivisions (a) and (c) shall be compounded annually by an inflation factor that is the annual percentage change, measured from February to February of the two previous assessment years, rounded to the nearest one-thousandth of 1 percent, in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(i) The amendments made to this section by the act adding this subdivision shall apply for property tax lien dates for the 2017–18 fiscal year and for each fiscal year thereafter.

Section 4831.1 is added to the Revenue and Taxation Code, to read:

*4831.1. Notwithstanding any other law, corrections to the roll that relate to the disabled veterans' exemption described in Section 205.5 may be corrected within eight years after the making of the assessment being corrected.*

Section 5097 of the Revenue and Taxation Code is amended to read:

5097.(a) An order for a refund under this article shall not be made, except on a claim:

(1) Verified by the person who paid the tax, his or her guardian, executor, or administrator.

(2) Except as provided in paragraph (3) or (4), filed within four years after making the payment sought to be refunded, or within one year after the mailing of notice as prescribed in Section 2635, or the period agreed to as provided in Section 532.1, or within 60 days of the date of the notice prescribed by subdivision (a) of Section 4836, whichever is later.

(3) (A) Filed within one year, if an application for a reduction in an assessment or an application for equalization of an assessment has been filed pursuant to Section 1603 and the applicant does not state in the application that the application is intended to constitute a claim for a refund, of either of the following events, whichever occurs first:

(i) After the county assessment appeals board makes a final determination on the application for reduction in assessment or on the application for equalization of an escape assessment of the property, and mails a written notice of its determination to the applicant and the notice does not advise the applicant to file a claim for refund.

(ii) After the expiration of the time period specified in subdivision (c) of Section 1604 if the county assessment appeals board fails to hear evidence and fails to make a final determination on the application for reduction in assessment or on the application for equalization of an escape assessment of the property.

(B) Filed within six months, if an application for a reduction in an assessment or an application for equalization of an assessment has been filed pursuant to Section 1603 and the applicant does not state in the application that the application is intended to constitute a claim for a refund, after the county assessment appeals board makes a final determination on the application for reduction in assessment or on the application for equalization of an escape assessment, and mails a written notice of its determination to the applicant and the notice advises the applicant to file a claim for refund within six months of the date of the county assessment appeals board's final determination.

~~(4) Filed within eight years after making the payment sought to be refunded, if the claim for refund is filed on or after January 1, 2015, and relates to the disabled veterans' exemption described in Section 205.5.~~

*Filed within eight years after making the payment sought to be refunded, or within 60 days of the notice prescribed by subdivision (a) of Section 4836, whichever is later, if the claim for refund is filed on or after January 1, 2015, and relates to the disabled veterans' exemption described in Section 205.5.*

(b) An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund under this section if the applicant states in the application that the application is intended to constitute a claim for refund. If the applicant does not so state, he or she may thereafter and within the period provided in paragraph (3) of subdivision (a) file a separate claim for refund of taxes extended on the assessment which the applicant applied to have reduced pursuant to Section 1603 or Section 1604.

(c) If an application for equalization of an escape assessment is filed pursuant to Section 1603, a claim may be filed on any taxes resulting from the escape assessment or the original assessment to which the escape relates within the period provided in paragraph (3) of subdivision (a).

(d) The amendments made to this section by the act adding this subdivision shall apply to claims for refund filed on or after January 1, 2015.

Section 5097.3 is added to the Revenue and Taxation Code, to read:

5097.3. Notwithstanding any other law, any taxes paid before or after delinquency may be refunded by the county tax collector or the county auditor, within eight years after the date of payment, if the amount paid exceeds the amount due on the property as the result of corrections to the roll that relate to the disabled veterans' exemption described in Section 205.5.