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No. 2012/026

July 2, 2012

TO COUNTY ASSESSORS:

TERMINATION OF EXEMPTION UPON SALE OR TRANSFER

Effective January 1, 2012, Senate Bill 947 (Stats. 2011, ch. 351), in part, adds section 271.5 to, repeals section 75.23 of, and amends section 531.1 of, the Revenue and Taxation Code¹ to clarify that certain property tax exemptions cease as of the date of sale or transfer of the property. These provisions apply to the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, and welfare exemptions.

Section 271 allows for the cancellation or refund of taxes on properties on the regular roll that are acquired by various exempt organizations after the lien date (January 1) but prior to the beginning of the fiscal year (July 1). It allows for a similar cancellation or refund of taxes for organizations that do not come into existence until after the lien date and thereafter acquire properties before the beginning of the fiscal year. For organizations that acquire properties on or after July 1, the taxes for that fiscal year are either canceled or refunded in proration to the number of days in the fiscal year that the property was owned by the organization. To receive the cancellation, refund, or proration, an application for the exemption must be filed within 90 days from the first day of the month following the month in which the property was acquired or by February 15 of the following calendar year, whichever occurs earlier. However, if an organization does not file a claim within this time period but files an exemption claim afterwards, late-filed penalties may apply, with the maximum tax not to exceed \$250.

In the case of a supplemental assessment, section 75.23 addresses the issue that an exemption does not apply to property as of the date of change in ownership if the transferee does not qualify. Confusion has arisen since section 75.23 applies to all exemptions, including the disabled veterans' exemption provisions of sections 276.2 and 276.3. Termination of the disabled veterans' exemption in section 276.3 was added in 2000 to a section following the statute that addresses eligibility for property acquired after the lien date. Section 75.23 was added in 2005 to provide that the exemption does not apply when property is sold and supplemental assessment is issued, but it doesn't expressly provide that the exemption shall be terminated. Thus, the statutes are disjointed resulting in confusion for tax practitioners. The logical sequence would be to place the termination of the exemption statute after the eligibility statute (section 271).

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

Thus, SB 947 adds section 271.5 to the Revenue and Taxation Code to provide that property tax exemptions cease as of the date of sale or transfer of the property. New section 271.5 follows section 271, the statute that allows for a property tax exemption to be applied to property acquired after the lien date. As a result of adding this section, section 75.23 becomes duplicative. Thus, SB 947 also repeals section 75.23. In addition, SB 947 amends section 531.1 to allow the assessor to enroll an escape assessment when the exemption has been erroneously allowed on a property that is not eligible. These provisions apply to real property sold or transferred on or after January 1, 2012.

For example, a non-profit organization owns and uses a property for which they have an exemption. In February 2012, the non-profit organization sells the property to a church. The exemption for the non-profit organization ceases as of the date of sale pursuant to section 271.5. However, under section 271, the church may apply for exemption if it puts the property to a qualifying use.

A copy of these statutory changes is enclosed. If you have any questions regarding these changes, 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:grs
Enclosure

Effective January 1, 2012, Revenue and Taxation Code Section 75.23 is repealed:

~~(a) Notwithstanding any other provision of law, in the case of a supplemental assessment on property that has undergone a change in ownership, an exemption that was granted to that property on the current roll or the roll being prepared shall not apply to that property as of the date of the change in ownership if the transferee did not otherwise qualify for that exemption on the date of the change in ownership. This subdivision shall not be construed to preclude a transferee from qualifying, on and after the date of a change in ownership, for an exemption for that property that is otherwise provided by law.~~

~~(b) Subdivision (a) does not apply to property that was granted the homeowners' exemption on the current roll or the roll being prepared.~~

Effective January 1, 2012, Section 271.5 is added to the Revenue and Taxation Code:

(a) In the event that property receiving the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, or welfare exemption is sold or otherwise transferred, the exemption shall cease to apply on the date of that sale or transfer. A new exemption shall be available subject to the provisions of Section 271.

(b) Termination of the exemption under this section shall result in an escape assessment of the property pursuant to Section 531.1.

Effective January 1, 2012, Revenue and Taxation Code Section 531.1 is amended to read:

Upon the termination of an exemption pursuant to Section 271.5 or 276.3, upon receipt of a notice pursuant to Section 284, or upon indication from any audit or other source that an exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the exemption. If an exemption or any portion of an exemption has been terminated or has been incorrectly allowed, an escape assessment in the amount of the exemption, or that portion of the exemption that has been terminated or erroneously allowed, with interest as provided in Section 506, shall be made; except that where the exemption was terminated pursuant to Section 275.1 or 276.3 or where the exemption or a portion of the exemption was allowed as the result of an assessor's error, the amount of interest shall be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that the information was erroneous or incomplete, the penalty provided in Section 504 shall be added to the assessment.