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No. 2013/018

February 4, 2013

TO COUNTY ASSESSORS:

OPEN-SPACE LANDS AND PROPERTY IN ITS NATURAL STATE

Assembly Bill 2207¹ was signed by the Governor on September 30, 2012 as urgency legislation, with provisions that commence with the lien date for the 2013-14 fiscal year. AB 2207 amends section 214.02 of the Revenue and Taxation Code² to clarify the scope and application of the Welfare Exemption for property dedicated to and used for open-space and natural resource preservation. These properties must be open to the general public, subject to reasonable restrictions concerning the needs of the land.

This bill ensures that certain activities on such property do not disqualify its nonprofit organization owners³ from the Welfare Exemption provided the activity is (1) consistent with the conservation purposes of the exemption, and (2) consistent with the conservation management plan for the property.

The bill specifies that for purposes of determining whether the property is used exclusively for the actual operation of the exempt activity, consideration shall not be given to the use of property for the following activities:

1. Activities resulting in direct or in-kind revenues, but only if those activities further the conservation objectives of the property as provided in a qualified conservation management plan for the property; and,
2. Any lease of the property for a purpose that furthers the conservation objectives of the property as provided in a qualified conservation management plan for the property.

Direct or in-kind revenues may include, but are not limited to, revenues derived from grazing leases, fees for events or recreational activities, or fees for permits such as hunting (of invasive species) and camping permits, rents from persons performing caretaking activities who reside in dwellings on the property, and admission fees collected for purposes of public enjoyment, none of which may generate unrelated business income.

The definition of a *qualified conservation management plan* is one that satisfies all of the following requirements:

1. Identifies that the foremost purpose and use of the property is for the preservation of native plants or animals, biotic communities, geological or geographical formations of

¹ Stats. 2012, ch. 863.

² All statutory references are to the Revenue and Taxation Code.

³ The property must be owned and operated by a scientific or charitable fund, foundation, limited liability company, or corporation meeting all the requirements of section 214 in which its primary interest is to preserve the land.

scientific or educational interest, or as open-space lands used solely for recreation and for the enjoyment of scenic beauty;

2. Identifies the overall conservation management goals, including identification of permitted activities, and actions necessary to achieve the goals;
3. Describes the natural resources and recreational attributes of the property;
4. Describes the potential threats to the conservation values or areas of special concern; and,
5. Contains a timeline for planned management activities and for regular inspections of the property, including existing structures and improvements.

Thus, if activities described above are consistent with the conservation management plan of the property, the county assessor is prohibited from considering the specified uses and revenues generated from them in determining whether a property dedicated to open-space and natural resource preservation qualifies for the Welfare Exemption.

A copy of section 214.02 is enclosed with changes denoted in strikeout/underscore format.

If you have any questions regarding this exemption, please contact our County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:mlw
Enclosure

Effective January 1, 2013, Section 214.02 of the Revenue and Taxation Code as amended by AB 2207 (Stats. 2012, ch. 863):

(a) Except as provided in subdivision (b) or (c), property that is used exclusively for the preservation of native plants or animals, biotic communities, geological or geographical formations of scientific or educational interest, or open-space lands used solely for recreation and for the enjoyment of scenic beauty, is open to the general public subject to reasonable restrictions concerning the needs of the land, and is owned and operated by a scientific or charitable fund, foundation, limited liability company, or corporation, the primary interest of which is to preserve those natural areas, and that meets all the requirements of Section 214, shall be deemed to be within the exemption provided for in subdivision (b) of Sections 4 and 5 of Article XIII of the Constitution of the State of California and Section 214.

(b) The exemption provided by this section shall not apply to any property of an organization that owns in the aggregate 30,000 acres or more in one county that were exempt under this section prior to March 1, 1983, or that are proposed to be exempt, unless the nonprofit organization that holds the property is fully independent of the owner of any taxable real property that is adjacent to the property otherwise qualifying for tax exemption under this section. For purposes of this section, the nonprofit organization that holds the property shall be considered fully independent if the exempt property is not used or operated by that organization or by any other person so as to benefit any officer, trustee, director, shareholder, member, employee, contributor or bondholder of the exempt organization or operator, or the owner of any adjacent property, or any other person, through the distribution of profits, payment of excessive charges or compensations, or the more advantageous pursuit of their business or profession.

(c) The exemption provided by this section shall not apply to property that is reserved for future development.

(d) (1) For the purposes of determining whether the property is used for the actual operation of the exempt activity as required by subdivision (a), consideration shall not be given to the use of the property for either of the following:

(A) Activities resulting in direct or in-kind revenues provided that the activities further the conservation objectives of the property as provided in a qualified conservation management plan for the property. These revenues include those revenues derived from grazing leases, hunting and camping permits, rents from persons performing caretaking activities who reside in dwellings on the property, and admission fees collected for purposes of public enjoyment.

(B) Any lease of the property for a purpose that furthers the conservation objectives of the property as provided in a qualified conservation management plan for the property.

(2) The activities and lease described in paragraph (1) may not generate unrelated business income.

(3) For purposes of this subdivision, a “qualified conservation management plan” means a plan that satisfies all of the following:

(A) Identifies both of the following:

(i) That the foremost purpose and use of the property is for the preservation of native plants or animals, biotic communities, geological or geographical formations of scientific or educational interest, or as open-space lands used solely for recreation and for the enjoyment of scenic beauty.

(ii) The overall conservation management goals, including, but not limited to, identification of permitted activities, and actions necessary to achieve the goals.

(B) Describes both of the following:

(i) The natural resources and recreational attributes of the property.

(ii) Potential threats to the conservation values or areas of special concern.

(C) Contains a timeline for planned management activities and for regular inspections of the property, including existing structures and improvements.

(e) This section shall be operative from the lien date in 1983 to and including the lien date in 2022, after which date this section shall become inoperative, and as of January 1, 2023, this section is repealed.

(f) The amendments made by ~~the act adding this subdivision~~ Section 4 of Chapter 354 of the Statutes of 2004 shall apply with respect to lien dates occurring on and after January 1, 2005.

(g) The amendments made to this section by the act adding this subdivision shall apply commencing with the lien date for the 2013–14 fiscal year.