

1                   **WELFARE EXEMPTION - LOW-INCOME HOUSING PROPERTY**  
2                   **PARTIAL EXEMPTIONS**

3    On September 27, 2014, the Governor signed Senate Bill 1203 (Stats. 2014, ch. 693), which  
4    relates to a property tax exemption for low-income rental housing projects. Included in the bill  
5    are amendments to portions of Revenue and Taxation Code section 214(g),<sup>1</sup> which allow for a  
6    partial exemption on property and related facilities when the rental housing does not exclusively  
7    serve lower income households. The amendments are effective January 1, 2015.

8    Section 214(g) provides for partial exemption for property used exclusively for rental housing  
9    and related facilities that are owned and operated by qualifying organizations. The amendments  
10   to section 214(g) relate to partial exemption calculation issues by: (1) specifying that the partial  
11   exemption calculation use a "number of units" basis (section 214(g)(1)); (2) defining "related  
12   facilities" to explicitly include certain items (section 214(g)(3)(B)); and (3) defining "units  
13   serving lower income households" to explicitly address units that are vacant when determining  
14   the occupancy percentage (section 214(g)(3)(C)).

15   Section 214(g)(1) is amended to read, in part, as follows:

16           Property used exclusively for rental housing and related facilities and owned and  
17           operated by religious, hospital, scientific, or charitable funds, foundations, limited  
18           liability companies, or corporations, including limited partnerships in which the  
19           managing general partner is an eligible nonprofit corporation or eligible limited  
20           liability company, meeting the requirements of this section... *shall be entitled to a*  
21           *partial exemption equal to that percentage of the value of the property that is*  
22           *equal to the percentage that the number of units serving lower income households*  
23           *represents of the total number of residential units in any year...* [Emphasis added.]

---

<sup>1</sup> All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

## PROPOSED DRAFT LTA – AMENDED 2-5-2015

---

1 In addition, section 214(g)(3) is amended to include subparagraphs (B) and (C).

2 Section 214(g)(3)(B) states:

3 "Related facilities" means any manager's units and any and all common area  
4 spaces that are included within the physical boundaries of the rental housing  
5 development, including, but not limited to, common area space, walkways,  
6 balconies, patios, clubhouse space, meeting rooms, laundry facilities and parking  
7 areas, except any portions of the overall development that are nonexempt  
8 commercial space.

9 Section 214(g)(3)(C) states:

10 "Units serving lower income households" shall mean units that are occupied by  
11 lower income households at an affordable rent, as defined in Section 50053 of the  
12 Health and Safety Code or, to the extent that the terms of federal, state, or local  
13 financing or financial assistance conflicts with Section 50053, rents that do not  
14 exceed those prescribed by the terms of the financing or financial assistance.  
15 Units reserved for lower income households at an affordable rent that are  
16 temporarily vacant due to tenant turnover or repairs shall be counted as occupied.

17 Forms BOE-267-L, *Welfare Exemption Supplemental Affidavit, Housing – Lower Income*  
18 *Households*, and BOE-267-L1, *Welfare Exemption Supplemental Affidavit, Low-Income Housing*  
19 *Property of Limited Partnership*, were updated to reflect these amendments. In addition, the  
20 following exempt value calculation procedure should be used when applying the welfare  
21 exemption to a low-income housing property:

- 22 1. Determine the total value of the property.
- 23 2. Determine the value of the rental housing and related facilities by subtracting the value of  
24 the nonexempt commercial property, if any, from the total property value.<sup>2</sup>
- 25 3. Determine the percentage of residential units eligible for exemption by dividing the  
26 number of units serving lower income households by the total number of residential units.

---

<sup>2</sup> When property consists of commercial and residential shared space, the common footprint of the land must be allocated between commercial and residential uses.

1 4. Finally, determine the exempt value by multiplying the percentage of residential units  
2 eligible for exemption by the value of the rental housing and related facilities.

3 The following examples illustrate the application of the exempt value calculation procedure:

4 **Example 1 – Low-Income Residential Housing Project**

5 Subject property is a five-story, low-income residential housing project located on a 2.0 acre  
6 parcel. The total square footage of the building is 50,000 square feet. There are common area  
7 spaces, walkways, laundry facilities, a manager's unit, and parking. The property is entirely  
8 dedicated to residential housing. The building includes a total of 50 residential units, with  
9 40 units designated for lower income households. The current market value of the property is  
10 \$10 million.

11  $40 \text{ LIH}^3 \text{ units} / 50 \text{ total units} = 80 \text{ percent}$

12  $\$10 \text{ million} \times 80 \text{ percent} = \$8 \text{ million}$

13 Therefore, \$8 million of the total property value consists of low-income housing and related  
14 facilities, which are exempt from taxation, while the remaining \$2 million is taxable.

15 **Example 2 – Low-Income Residential Housing Project with Vacant Units**

16 Subject property is a five-story, low-income residential housing project located on a 2.0 acre  
17 parcel. The total square footage of the building is 50,000 square feet. There are common area  
18 spaces, walkways, laundry facilities, a manager's unit, and parking. The property is entirely  
19 dedicated to residential housing. The building includes a total of 50 residential units, with  
20 40 units designated for lower income households. Of those 40 lower income household units,  
21 35 units are occupied and 5 units are vacant, but reserved for low-income residents. The current  
22 market value of the property is \$10 million.

---

<sup>3</sup> Lower Income Household (LIH).

## PROPOSED DRAFT LTA – AMENDED 2-5-2015

---

1           35 LIH units + 5 vacant LIH units = 40 LIH units

2           40 LIH units / 50 total units = 80 percent

3           \$10 million X 80 percent = \$8 million

4   Therefore, \$8 million of the total property value consists of low-income housing and related  
5   facilities, which are exempt from taxation, while the remaining \$2 million is taxable.

### 6   **Example 3 – Low-Income Residential Housing Project with Commercial Space**

7   Subject property is a five-story, low-income residential housing project located on a 2.0 acre  
8   parcel. The total square footage of the building is 50,000 square feet. There are common area  
9   spaces, walkways, laundry facilities, a manager's unit, and parking. The property is a mixed use  
10   of residential housing and commercial space. The building includes a total of 50 residential units,  
11   with 40 units designated for lower income households, and 10,000 square feet of commercial  
12   space. Of those 40 lower income household units, 35 units are occupied and 5 units are vacant,  
13   but reserved for low-income residents. The current market value of the property is \$11 million,  
14   which includes \$2 million attributable to nonexempt commercial property.

15           Current market value of total property	\$11,000,000
16           Market value of nonexempt commercial property	<u>(2,000,000)</u>
17           Residential property	9,000,000
18           Low-income housing (80%) <sup>4</sup>	<u>(7,200,000)</u>
19           Nonexempt residential housing	\$1,800,000
20	
21           Current market value of total property	\$11,000,000
22           Exempt low-income housing	<u>(7,200,000)</u>
23 <b>Total market value of nonexempt property</b>	<b>\$3,800,000</b>

24   In valuing the nonexempt commercial portion of the property, care must be taken to ensure that  
25   the value includes all components of the property that contribute to the commercial use,  
26   including that portion of the land attributable to the commercial property and any common

---

<sup>4</sup> See Example 2 for calculation of the percentage of residential units eligible for exemption (35 LIH units + 5 vacant LIH units = 40 LIH units / 50 total units = 80 percent).

## PROPOSED DRAFT LTA – AMENDED 2-5-2015

---

1 property, such as parking and walkways. The income approach to value may already include  
2 these components in the income to be capitalized; the comparative sales approach to value may  
3 already include these components in the unit of comparison. However, when using the cost  
4 approach to value, these components may have to be explicitly added to capture the full value of  
5 the property used for nonexempt commercial use.

### 6 **Example 4 – Low-Income Residential Housing Project with Commercial Space and Vacant** 7 **Excess Land**

8 Subject property is a five-story, low-income residential housing project located on a 4.0 acre  
9 parcel. Of those 4.0 acres, only 2 acres are being utilized. The total square footage of the  
10 building is 50,000 square feet. There are common area spaces, walkways, laundry facilities, a  
11 manager's unit, and parking. The property is a mixed use of residential housing, commercial  
12 space, and 2.0 acres of vacant excess land. The building includes a total of 50 residential units,  
13 with 40 units designated for lower income households, and 10,000 square feet of commercial  
14 space. Of those 40 lower income household units, 35 units are occupied and 5 units are vacant,  
15 but reserved for low-income residents. The current market value of the property is \$11.5 million,  
16 which includes \$500,000 attributable to nonexempt vacant excess land and \$2 million  
17 attributable to nonexempt commercial property.

18	Current market value to total property	\$11,500,000
19	Market value of nonexempt vacant excess land	(500,000)
20	Market value of nonexempt commercial property	<u>(2,000,000)</u>
21	Residential property	9,000,000
22	Low-income housing (80%) <sup>5</sup>	<u>(7,200,000)</u>
23	Nonexempt residential housing	\$1,800,000
24		
25	Current market value of total property	\$11,500,000
26	Exempt low-income housing	<u>(7,200,000)</u>
27	<b>Total market value of nonexempt property</b>	<b>\$4,300,000</b>

---

<sup>5</sup> See Example 2 for calculation of the percentage of residential units eligible for exemption (35 LIH units + 5 vacant LIH units = 40 LIH units / 50 total units = 80 percent).

## PROPOSED DRAFT LTA – AMENDED 2-5-2015

---

- 1 In this example, the nonexempt portion of the property includes excess land, which must be
- 2 removed prior to determining that portion eligible for the low-income housing exemption.
- 3 Excess land is that which is not needed to support the existing improvements and, as such, would
- 4 not qualify as rental housing and related facilities.<sup>6</sup>

---

<sup>6</sup> Generally, unused vacant property does not qualify for the welfare exemption. However, section 214.15, provides that vacant land owned by qualifying nonprofit organizations, whose primary purpose is to build and rehabilitate single- or multi-family residences for sale at cost to low-income families with zero interest rate loan financing, may qualify for exemption.