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SB-1480 Property taxation. (2015-2016)

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Senate Bill No. 1480

CHAPTER 116

An act to amend Sections 254.5, 1840, and 4674 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 25, 2016. Filed with Secretary of State July 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, Committee on Governance and Finance. Property taxation.

Existing law relieves applicants granted a welfare exemption and owning certain exempt property from reapplying for the welfare exemption in any subsequent year in which there has been no transfer of, or other change in title to, the exempted property and the property is used exclusively by a governmental entity or by a nonprofit corporation, as specified. Existing law requires the assessor to annually mail a notice to every applicant relieved of the requirement of filing an annual application as so described and requires the notice to be in a form and contain that information that the State Board of Equalization may prescribe. Existing law also requires the notice to include a card that is to be returned to the assessor by an applicant desiring to maintain eligibility for the welfare exemption.

This bill would instead require the State Board of Equalization to prescribe the form and content of the notice after consultation with the California Assessors' Association. The bill would eliminate the requirement that the notice include a card and would instead require the notice to inform any applicant desiring to maintain eligibility for the welfare exemption for the next fiscal year of the procedure to reaffirm exemption eligibility.

The California Constitution generally exempts real property that is owned by a local government from property taxation, but provides that real property owned by a local government that is located outside its boundaries is taxable if it was taxable when acquired. Existing law authorizes a county, city and county, or municipal corporation that owns taxable property to apply to the State Board of Equalization for a review, equalization, or adjustment of a property tax assessment relating to this publicly owned property. Existing law requires that this application be submitted to the board on or before the later of either July 20 or within 2 weeks of the date upon which a county assessor delivers the local roll containing that assessment to the county auditor.

This bill would instead require that this application be submitted to the board on or before November 30.

Existing law generally authorizes a county tax collector to sell tax-defaulted property 5 years or more, or 3 years or more, as applicable, after that property has become tax defaulted. Existing law requires the proceeds from the sale of tax-defaulted property to be deposited in the delinquent tax sale trust fund and requires the proceeds in the fund to be distributed in a specified manner. Existing law requires any excess proceeds remaining in the delinquent tax sale trust fund after distribution of the proceeds to be retained in the fund subject to being claimed by parties of interest, as provided. Existing law, at the expiration of a specified time period, authorizes any excess proceeds not claimed to be transferred to the county general fund.

This bill would authorize the county to deduct certain costs prior to transferring any excess proceeds not claimed to the county general fund.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 254.5 of the Revenue and Taxation Code is amended to read:

254.5. (a) Claims for the welfare exemption and the veterans' organization exemption shall be filed on or before February 15 of each year with the assessor.

The assessor may not approve a property tax exemption claim until the claimant has been issued a valid organizational clearance certificate pursuant to Section 254.6. Financial statements shall be submitted only if requested in writing by the assessor.

(b) (1) The assessor shall review all claims for the welfare exemption to ascertain whether the property on which the exemption is claimed meets the requirements of Section 214. The assessor shall also review all claims for the veterans' organization exemption to ascertain whether the property on which the exemption is claimed meets the requirements of Section 215.1. In this connection, the assessor shall consider, among other matters, whether:

(A) Any capital investment of the owner or operator for expansion of a physical plant is justified by the contemplated return thereon, and required to serve the interests of the community.

(B) The property on which the exemption is claimed is used for the actual operation of an exempt activity and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(2) The assessor may institute an audit or verification of the operations of the owner or operator of the applicant's property to ascertain whether both the owner and operator meet the requirements of Section 214.

(c) (1) The assessor may deny a claim for the welfare exemption on a property, notwithstanding that the claimant has been granted an organizational clearance certificate by the board.

(2) If the assessor finds that the claimant's property is ineligible for the welfare exemption or the veterans' organization exemption, the assessor shall notify the claimant in writing of all of the following:

(A) That the property is ineligible for the exemption.

(B) That the claimant may seek a refund of property taxes paid by filing a refund claim with the county.

(C) That if the claimant's refund claim with the county is denied, the claimant may file a refund action in superior court.

(d) Notwithstanding subdivision (a), an applicant, granted a welfare exemption and owning any property exempted pursuant to Section 214.15 or Section 231, shall not be required to reapply for the welfare exemption in any subsequent year in which there has been no transfer of, or other change in title to, the exempted property and the property is used exclusively by a governmental entity or by a nonprofit corporation described in Section 214.15 for its interest and benefit. The applicant shall notify the assessor on or before February 15 if, on or before the preceding lien date, the applicant became ineligible for the welfare exemption or if, on or before that lien date, the property was no longer owned by the applicant or otherwise failed to meet all requirements for the welfare exemption.

Prior to the lien date, the assessor shall annually mail a notice to every applicant relieved of the requirement of filing an annual application by this subdivision.

The notice shall be in a form and contain that information that the board may prescribe, after consultation with the California Assessors' Association, and shall set forth the circumstances under which the property may no longer be eligible for exemption, and advise the applicant of the duty to inform the assessor if the property is no longer eligible for exemption.

The notice shall inform any applicant desiring to maintain eligibility for the welfare exemption under Section 214.15 or Section 231 for the next fiscal year of the procedure to reaffirm exemption eligibility. The failure to reaffirm eligibility for the exemption does not of itself constitute a waiver of exemption as called for by the California Constitution, but may result in additional contact by the assessor to verify exempt activity.

(e) Upon any indication that a welfare exemption or veterans' organization exemption on the property has been incorrectly granted, the assessor shall redetermine eligibility for the exemption. If the assessor determines that the property, or any portion thereof, is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for the exemption.

(f) If a welfare exemption or veterans' organization exemption on the property has been incorrectly allowed, an escape assessment as provided by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption, with interest as provided in Section 506, shall be made, and a penalty shall be assessed for any failure to notify the assessor as required by this section in an amount equaling 10 percent of the escape assessment, but may not exceed two hundred fifty dollars (\$250).

(g) Pursuant to Section 15640 of the Government Code, the board shall review the assessor's administration of the welfare exemption and the veterans' organization exemption as part of the board's survey of the county assessment roll to ensure the proper administration of the exemption.

SEC. 2. Section 1840 of the Revenue and Taxation Code is amended to read:

1840. If any county, city and county, or municipal corporation desires to secure a review, equalization, or adjustment of the assessment of its property by the board pursuant to subdivision (g) of Section 11 of Article XIII of the California Constitution, it shall apply to the board for that review, equalization, or adjustment in writing on or before November 30. If the assessment objected to is one made outside the regular period for those assessments, the application for review shall be filed with the board within 60 days from the date the tax bill is mailed to the assessee.

Every application shall show the facts claimed to require action of the board, and a copy of the application shall be filed with the assessor whose assessment is questioned. Upon receipt of a timely application, the board shall afford the applicant notice and a hearing in accordance with any rules and regulations as the board may prescribe. The failure to file a timely application shall bar the applicant from relief under subdivision (g) of Section 11 of Article XIII or this section.

SEC. 3. Section 4674 of the Revenue and Taxation Code is amended to read:

4674. Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4672.2, 4673, and 4673.1 shall be retained in the fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of the period specified in subdivision (e) of Section 4675, any excess proceeds not claimed under Section 4675 may be transferred to the county general fund of the county by the county auditor, except that prior to the transfer, the county may deduct those costs of maintaining the redemption and tax-defaulted property files, and those costs of administering and processing the claims for excess proceeds, that have not been recovered under any other law.