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AB-1249 Property taxation: exemptions: veterans' organizations. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

NO. 1249

Introduced by Assembly Member Gray
(Coauthors: Assembly Members Mathis and Voepel)
(Coauthors: Senators Anderson, Bates, Berryhill, Morrell, Newman, and Nguyen)

February 17, 2017

An act to amend Section 215.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1249, Gray. Property taxation: exemptions: veterans' organizations.

Existing property tax law establishes a veterans' organization exemption under which property is exempt from taxation if, among other things, that property is used exclusively for charitable purposes and is owned by a veterans' organization.

This bill would provide that the veterans' organization exemption shall not be denied to a property on the basis that the property is used for fraternal, lodge, or social club purposes, and would make specific findings and declarations in that regard. The bill would also provide that the exemption shall not apply to any portion of a property that consists of a bar where alcoholic beverages are served.

Existing law requires the state to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding those provisions, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) (1) Since 1899 congressionally chartered veteran service organizations have provided a valuable service to our nation's returning service members. These organizations help preserve the memories and incidents of the great hostilities fought by our nation, and preserve and strengthen comradeship among members.

(2) These veteran service organizations also own and manage various properties including lodges, posts, and fraternal halls. These properties act as a safe haven where veterans of all ages and their families can gather together to find camaraderie and fellowship, share stories, and seek support from people who understand their unique experiences. This aids in the healing process for these returning veterans, and ensures their health and happiness.

(b) As a result of congressional chartering of these veteran service organizations, the United States Internal Revenue Service created a special tax exemption for veterans' organizations under Section 501(c)(19) of the Internal Revenue Code.

(c) Section 501(c)(19) of the Internal Revenue Code and related federal regulations provide for the exemption for posts or organizations of war veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization that, among other attributes, carries on programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors, conducts programs for religious, charitable, scientific, literary, or educational purposes, sponsors or participates in activities of a patriotic nature, and provides social and recreational activities for their members.

(d) Section 215.1 of the Revenue and Taxation Code stipulates that all buildings, and so much of the real property on which the buildings are situated as may be required for the convenient use and occupation of the buildings, used exclusively for charitable purposes, owned by a veterans' organization that has been chartered by the Congress of the United States, organized and operated for charitable purposes, when the same are used solely and exclusively for the purpose of the organization, if not conducted for profit and no part of the net earnings of which inures to the benefit of any private individual or member thereof, are exempt from taxation.

(e) The Chief Counsel of the State Board of Equalization concluded, based on a 1979 appellate court decision, that only parts of American Legion halls are exempt from property taxation and that other parts, such as billiard rooms, card rooms, and similar areas, are not exempt.

(f) In a 1994 memorandum, the State Board of Equalization's legal division further concluded that the areas normally considered eligible for exemptions are the office areas used to counsel veterans and the area used to store veterans' records, but that the meeting hall and bar found in most of the facilities are not considered used for charitable purposes.

(g) Tax-exempt status is intended to provide economic incentive and support to veteran service organizations to provide for the social welfare of the community of current and former military personnel.

(h) The State Board of Equalization's constriction of the tax exemption has resulted in an onerous tax burden on California veteran service organizations' posts or halls, hinders the posts' ability to provide facilities for veterans, and threatens the economic viability of many local organizations.

(i) The charitable activities of a veteran service organization's post or hall are much more than the counseling of veterans. The requirements listed for qualification for the federal tax exemption clearly dictate a need for more than just an office.

(j) Programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors require the use of facilities for funerals and receptions.

(k) Programs for religious, charitable, scientific, literary, or educational purposes require space for more than 50 attendees.

(l) Activities of a patriotic nature need facilities to accommodate hundreds of people.

(m) Social and recreational activities for members require precisely those areas considered "not used for charitable purposes" by the State Board of Equalization.

(n) The State Board of Equalization's interpretation of the Revenue and Taxation Code reflects a lack of understanding of the purpose and programs of the veterans service organizations posts or halls and is detrimental to the good works performed in support of our veteran community.

SEC. 2. Section 215.1 of the Revenue and Taxation Code is amended to read:

215.1. (a) All buildings, and so much of the real property on which the buildings are situated as may be required for the convenient use and occupation of the buildings, used exclusively for charitable purposes, owned by a veterans' organization that has been chartered by the Congress of the United States, organized and operated for charitable purposes, when the same are used solely and exclusively for the purpose of the organization, if not conducted for profit and no part of the net earnings of which inures to the benefit of any private individual or member thereof, shall be exempt from taxation.

(b) The exemption provided for in this section shall apply to the property of all organizations meeting the requirements of this section, subdivision (b) of Section 4 of Article XIII of the California Constitution, and paragraphs (1) to (4), inclusive, (6), and (7) of subdivision (a) of Section 214.

(c) (1) The exemption specified by subdivision (a) shall not be denied to a property on the basis that the property is used for fraternal, lodge, or social club purposes.

(2) With regard to this subdivision, the Legislature finds and declares all of the following:

(A) The exempt activities of a veterans' organization as described in subdivision (a) qualitatively differ from the exempt activities of other nonprofit entities that use property for fraternal, lodge, or social club purposes in that the exempt purpose of the veterans' organization is to conduct programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors, to conduct programs for religious, charitable, scientific, literary, or educational purposes, to sponsor or participate in activities of a patriotic nature, and to provide social and recreational activities for their members.

(B) In light of this distinction, the use of real property by a veterans' organization as described in subdivision (a) for fraternal, lodge, or social club purposes is central to that organization's exempt purposes and activities.

(C) In light of the factors set forth in subparagraphs (A) and (B), the use of real property by a veterans' organization as described in subdivision (a) for fraternal, lodge, or social club purposes constitutes the exclusive use of that property for a charitable purpose within the meaning of subdivision (b) of Section 4 of Article XIII of the California Constitution.

(d) The exemption provided for in this section shall not apply to any portion of a property that consists of a bar where alcoholic beverages are served. The portion of the property ineligible for the veterans' organization exemption shall be that area used primarily to prepare and serve alcoholic beverages.

(e) An organization that files a claim for the exemption provided for in this section shall file with the assessor a valid organizational clearance certificate issued pursuant to Section 254.6.

(f) This exemption shall be known as the "veterans' organization exemption."

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.