

AMENDED IN ASSEMBLY JUNE 29, 2016

AMENDED IN ASSEMBLY JUNE 23, 2016

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1458

Introduced by Senator Bates
(Coauthor: Senator Nguyen)

February 19, 2016

An act to amend ~~Section 205.5~~ of Sections 205.5 and 5097 of, and to add Sections 4831.1 and 5097.3 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1458, as amended, Bates. Property taxation: exemptions: disabled veterans.

Existing property tax law provides, pursuant to the authorization of the California Constitution, a disabled veteran's property tax exemption for the principal place of residence of a veteran or a veteran's spouse, including an unmarried surviving spouse, if the veteran, because of an injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, as those terms are defined, or if the veteran has, as a result of a service-connected injury or disease, died while on active duty in military service. That law defines a veteran for its purposes as a person who, among other things, is serving in or has served in and has been discharged under honorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

This bill, for property tax lien dates for the 2017– 18 fiscal year and each fiscal year thereafter, would expand that definition of veteran to

include a person who has been discharged in other than dishonorable conditions from service under those same conditions and who has been determined by the United States Department of Veterans Affairs to be eligible for federal veterans' health and medical benefits.

Existing property tax law allows the correction of certain errors resulting in incorrect entries on the property tax roll within 4 years after the making of the assessment.

This bill would extend the time for correcting errors to the roll related to the disabled veterans' exemption to 8 years.

Existing law requires property taxes to be refunded upon the filing of a claim within 8 years after making the payment sought to be refunded if the claim relates to the disabled veterans' exemption.

This bill would instead require a refund on a claim filed within 8 years after making the payment sought to be refunded, or within 60 days of the date of a specified notice, whichever is later.

Existing property tax law authorizes any taxes paid before or after delinquency to be refunded by the county tax collector within 4 years after the date of payment under specified conditions.

This bill would authorize any taxes paid before or after delinquency to be refunded by the county tax collector within 8 years after the date of payment if the amount paid exceeds the amount due on the property as a result of corrections to the roll that relate to the disabled veterans' exemption.

By changing the manner in which local county officials administer property tax refunds with respect to the disabled veterans' exemption, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Section 2229 of the Revenue and Taxation Code requires the Legislature 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 Section 2229 of the Revenue and Taxation Code, 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 205.5 of the Revenue and Taxation Code
2 is amended to read:

3 205.5. (a) Property that constitutes the principal place of
4 residence of a veteran, that is owned by the veteran, the veteran’s
5 spouse, or the veteran and the veteran’s spouse jointly, is exempted
6 from taxation on that part of the full value of the residence that
7 does not exceed one hundred thousand dollars (\$100,000), as
8 adjusted for the relevant assessment year as provided in subdivision
9 (h), if the veteran is blind in both eyes, has lost the use of two or
10 more limbs, or if the veteran is totally disabled as a result of injury
11 or disease incurred in military service. The one hundred thousand
12 dollar (\$100,000) exemption shall be one hundred fifty thousand
13 dollars (\$150,000), as adjusted for the relevant assessment year as
14 provided in subdivision (h), in the case of an eligible veteran whose
15 household income does not exceed the amount of forty thousand
16 dollars (\$40,000), as adjusted for the relevant assessment year as
17 provided in subdivision (g).

18 (b) (1) For purposes of this section, “veteran” means either of
19 the following:

20 (A) A person who is serving in or has served in and has been
21 discharged under other than dishonorable conditions from service
22 in the United States Army, Navy, Air Force, Marine Corps, or
23 Coast Guard, and served either in time of war or in time of peace
24 in a campaign or expedition for which a medal has been issued by

1 Congress, or in time of peace and because of a service-connected
2 disability was released from active duty, and who has been
3 determined by the United States Department of Veterans Affairs
4 to be eligible for federal veterans' health and medical benefits.

5 (B) Any person who would qualify as a veteran pursuant to
6 subparagraph (A) except that he or she has, as a result of a
7 service-connected injury or disease, died while on active duty in
8 military service. The United States Department of Veterans Affairs
9 shall determine whether an injury or disease is service connected.

10 (2) For purposes of this section, property is deemed to be the
11 principal place of residence of a veteran, disabled as described in
12 subdivision (a), who is confined to a hospital or other care facility,
13 if that property would be that veteran's principal place of residence
14 were it not for his or her confinement to a hospital or other care
15 facility, provided that the residence is not rented or leased to a
16 third party. For purposes of this paragraph, a family member who
17 resides at the residence is not a third party.

18 (c) (1) Property that is owned by, and that constitutes the
19 principal place of residence of, the unmarried surviving spouse of
20 a deceased veteran is exempt from taxation on that part of the full
21 value of the residence that does not exceed one hundred thousand
22 dollars (\$100,000), as adjusted for the relevant assessment year as
23 provided in subdivision (h), in the case of a veteran who was blind
24 in both eyes, had lost the use of two or more limbs, or was totally
25 disabled provided that either of the following conditions is met:

26 (A) The deceased veteran during his or her lifetime qualified
27 for the exemption pursuant to subdivision (a), or would have
28 qualified for the exemption under the laws effective on January 1,
29 1977, except that the veteran died prior to January 1, 1977.

30 (B) The veteran died from a disease that was service connected
31 as determined by the United States Department of Veterans Affairs.

32 The one hundred thousand dollar (\$100,000) exemption shall
33 be one hundred fifty thousand dollars (\$150,000), as adjusted for
34 the relevant assessment year as provided in subdivision (h), in the
35 case of an eligible unmarried surviving spouse whose household
36 income does not exceed the amount of forty thousand dollars
37 (\$40,000), as adjusted for the relevant assessment year as provided
38 in subdivision (g).

39 (2) Commencing with the 1994–95 fiscal year, property that is
40 owned by, and that constitutes the principal place of residence of,

1 the unmarried surviving spouse of a veteran as described in
2 subparagraph (B) of paragraph (1) of subdivision (b) is exempt
3 from taxation on that part of the full value of the residence that
4 does not exceed one hundred thousand dollars (\$100,000), as
5 adjusted for the relevant assessment year as provided in subdivision
6 (h). The one hundred thousand dollar (\$100,000) exemption shall
7 be one hundred fifty thousand dollars (\$150,000), as adjusted for
8 the relevant assessment year as provided in subdivision (h), in the
9 case of an eligible unmarried surviving spouse whose household
10 income does not exceed the amount of forty thousand dollars
11 (\$40,000), as adjusted for the relevant assessment year as provided
12 in subdivision (g).

13 (3) Beginning with the 2012–13 fiscal year and for each fiscal
14 year thereafter, property is deemed to be the principal place of
15 residence of the unmarried surviving spouse of a deceased veteran,
16 who is confined to a hospital or other care facility, if that property
17 would be the unmarried surviving spouse’s principal place of
18 residence were it not for his or her confinement to a hospital or
19 other care facility, provided that the residence is not rented or
20 leased to a third party. For purposes of this paragraph, a family
21 member who resides at the residence is not a third party.

22 (d) As used in this section, “property that is owned by a veteran”
23 or “property that is owned by the veteran’s unmarried surviving
24 spouse” includes all of the following:

25 (1) Property owned by the veteran with the veteran’s spouse as
26 a joint tenancy, tenancy in common, or as community property.

27 (2) Property owned by the veteran or the veteran’s spouse as
28 separate property.

29 (3) Property owned with one or more other persons to the extent
30 of the interest owned by the veteran, the veteran’s spouse, or both
31 the veteran and the veteran’s spouse.

32 (4) Property owned by the veteran’s unmarried surviving spouse
33 with one or more other persons to the extent of the interest owned
34 by the veteran’s unmarried surviving spouse.

35 (5) So much of the property of a corporation as constitutes the
36 principal place of residence of a veteran or a veteran’s unmarried
37 surviving spouse when the veteran, or the veteran’s spouse, or the
38 veteran’s unmarried surviving spouse is a shareholder of the
39 corporation and the rights of shareholding entitle one to the
40 possession of property, legal title to which is owned by the

1 corporation. The exemption provided by this paragraph shall be
2 shown on the local roll and shall reduce the full value of the
3 corporate property. Notwithstanding any law or articles of
4 incorporation or bylaws of a corporation described in this
5 paragraph, any reduction of property taxes paid by the corporation
6 shall reflect an equal reduction in any charges by the corporation
7 to the person who, by reason of qualifying for the exemption, made
8 possible the reduction for the corporation.

9 (e) For purposes of this section, being blind in both eyes means
10 having a visual acuity of 5/200 or less, or concentric contraction
11 of the visual field to 5 degrees or less; losing the use of a limb
12 means that the limb has been amputated or its use has been lost
13 by reason of ankylosis, progressive muscular dystrophies, or
14 paralysis; and being totally disabled means that the United States
15 Department of Veterans Affairs or the military service from which
16 the veteran was discharged has rated the disability at 100 percent
17 or has rated the disability compensation at 100 percent by reason
18 of being unable to secure or follow a substantially gainful
19 occupation.

20 (f) An exemption granted to a claimant pursuant to this section
21 shall be in lieu of the veteran's exemption provided by subdivisions
22 (o), (p), (q), and (r) of Section 3 of Article XIII of the California
23 Constitution and any other real property tax exemption to which
24 the claimant may be entitled. No other real property tax exemption
25 may be granted to any other person with respect to the same
26 residence for which an exemption has been granted pursuant to
27 this section; provided, that if two or more veterans qualified
28 pursuant to this section coown a property in which they reside,
29 each is entitled to the exemption to the extent of his or her interest.

30 (g) Commencing on January 1, 2002, and for each assessment
31 year thereafter, the household income limit shall be compounded
32 annually by an inflation factor that is the annual percentage change,
33 measured from February to February of the two previous
34 assessment years, rounded to the nearest one-thousandth of 1
35 percent, in the California Consumer Price Index for all items, as
36 determined by the California Department of Industrial Relations.

37 (h) Commencing on January 1, 2006, and for each assessment
38 year thereafter, the exemption amounts set forth in subdivisions
39 (a) and (c) shall be compounded annually by an inflation factor
40 that is the annual percentage change, measured from February to

1 February of the two previous assessment years, rounded to the
2 nearest one-thousandth of 1 percent, in the California Consumer
3 Price Index for all items, as determined by the California
4 Department of Industrial Relations.

5 (i) The amendments made to this section by the act adding this
6 subdivision shall apply for property tax lien dates for the 2017–18
7 fiscal year and for each fiscal year thereafter.

8 *SEC. 2. Section 4831.1 is added to the Revenue and Taxation*
9 *Code, to read:*

10 *4831.1. Notwithstanding any other law, corrections to the roll*
11 *that relate to the disabled veterans' exemption described in Section*
12 *205.5 may be corrected within eight years after the making of the*
13 *assessment being corrected.*

14 *SEC. 3. Section 5097 of the Revenue and Taxation Code is*
15 *amended to read:*

16 5097. (a) An order for a refund under this article shall not be
17 made, except on a claim:

18 (1) Verified by the person who paid the tax, his or her guardian,
19 executor, or administrator.

20 (2) Except as provided in paragraph (3) or (4), filed within four
21 years after making the payment sought to be refunded, or within
22 one year after the mailing of notice as prescribed in Section 2635,
23 or the period agreed to as provided in Section 532.1, or within 60
24 days of the date of the notice prescribed by subdivision (a) of
25 Section 4836, whichever is later.

26 (3) (A) Filed within one year, if an application for a reduction
27 in an assessment or an application for equalization of an assessment
28 has been filed pursuant to Section 1603 and the applicant does not
29 state in the application that the application is intended to constitute
30 a claim for a refund, of either of the following events, whichever
31 occurs first:

32 (i) After the county assessment appeals board makes a final
33 determination on the application for reduction in assessment or on
34 the application for equalization of an escape assessment of the
35 property, and mails a written notice of its determination to the
36 applicant and the notice does not advise the applicant to file a claim
37 for refund.

38 (ii) After the expiration of the time period specified in
39 subdivision (c) of Section 1604 if the county assessment appeals
40 board fails to hear evidence and fails to make a final determination

1 on the application for reduction in assessment or on the application
2 for equalization of an escape assessment of the property.

3 (B) Filed within six months, if an application for a reduction in
4 an assessment or an application for equalization of an assessment
5 has been filed pursuant to Section 1603 and the applicant does not
6 state in the application that the application is intended to constitute
7 a claim for a refund, after the county assessment appeals board
8 makes a final determination on the application for reduction in
9 assessment or on the application for equalization of an escape
10 assessment, and mails a written notice of its determination to the
11 applicant and the notice advises the applicant to file a claim for
12 refund within six months of the date of the county assessment
13 appeals board's final determination.

14 (4) Filed within eight years after making the payment sought
15 to be refunded, *or within 60 days of the notice prescribed by*
16 *subdivision (a) of Section 4836, whichever is later*, if the claim for
17 refund is filed on or after January 1, 2015, and relates to the
18 disabled veterans' exemption described in Section 205.5.

19 (b) An application for a reduction in an assessment filed pursuant
20 to Section 1603 shall also constitute a sufficient claim for refund
21 under this section if the applicant states in the application that the
22 application is intended to constitute a claim for refund. If the
23 applicant does not so state, he or she may thereafter and within
24 the period provided in paragraph (3) of subdivision (a) file a
25 separate claim for refund of taxes extended on the assessment
26 which the applicant applied to have reduced pursuant to Section
27 1603 or Section 1604.

28 (c) If an application for equalization of an escape assessment
29 is filed pursuant to Section 1603, a claim may be filed on any taxes
30 resulting from the escape assessment or the original assessment
31 to which the escape relates within the period provided in paragraph
32 (3) of subdivision (a).

33 (d) The amendments made to this section by the act adding this
34 subdivision shall apply to claims for refund filed on or after January
35 1, 2015.

36 *SEC. 4. Section 5097.3 is added to the Revenue and Taxation*
37 *Code, to read:*

38 *5097.3. Notwithstanding any other law, any taxes paid before*
39 *or after delinquency may be refunded by the county tax collector*
40 *or the county auditor, within eight years after the date of payment,*

1 *if the amount paid exceeds the amount due on the property as the*
2 *result of corrections to the roll that relate to the disabled veterans’*
3 *exemption described in Section 205.5.*

4 *SEC. 5. If the Commission on State Mandates determines that*
5 *this act contains costs mandated by the state, reimbursement to*
6 *local agencies and school districts for those costs shall be made*
7 *pursuant to Part 7 (commencing with Section 17500) of Division*
8 *4 of Title 2 of the Government Code.*

9 ~~SEC. 2.~~

10 *SEC. 6. Notwithstanding Section 2229 of the Revenue and*
11 *Taxation Code, no appropriation is made by this act and the state*
12 *shall not reimburse any local agency for any property tax revenues*
13 *lost by it pursuant to this act.*

14 ~~SEC. 3.~~

15 *SEC. 7. This act provides for a tax levy within the meaning of*
16 *Article IV of the Constitution and shall go into immediate effect.*