

# California Property Tax Exemption for Charities: A Primer

06.21.16 | Linda J. Rosenthal, JD



Around the nation, there are frequent news stories about the dire financial straits of state and local governments. Beleaguered officials and legislators desperately seek ways to limit the money-flow out of government coffers and to spot ways to increase revenue.

It's no wonder, then, that there's been a lot of interest in recent years in the philanthropy sector and its generous tax breaks.

At the federal level, the 501(c)(3) income tax exemptions along with the related charitable deduction benefits to charity donors account for huge amounts of money lost to the U.S. Treasury. But any such diverted monies would have gone, if collected, into the general fund of the United States government.

It's an entirely different situation with property taxes; that's a matter for states and their subdivision counties and municipalities. Although each state has its own laws and rules on collection and allocation of property taxes, this stream of income is critical – everywhere – to providing key local services including police, fire, public works, and social service programs.

Property tax exemptions, then, remove many key parcels of otherwise taxable real estate. This is a particular drain in communities with one or more large universities and health care institutions.

In "[Local Governments Eager to Snag Revenue from Nonprofits](#)," we explained how politicians around the nation have been creative in squeezing the nonprofit sector. In particular, there has been a proliferation in recent years of "special fees," "payments in lieu of taxes" (PILOTs), and assaults on property tax exemptions.

It's [happening here](#) in California, too. But a special feature of the Golden State's property-tax exemption law makes it more difficult for legislators put a big bulls-eye on our philanthropic organizations for budget enhancement. [California's exemptions are constitutional](#), instead of merely statutory. That's not the case, generally, around the nation, so lawmakers there have an easier time of diluting or eliminating property tax breaks.

## The Welfare Exemption

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*The California Legislature has the authority to exempt property (1) used exclusively for religious, hospital, or charitable purposes, and (2) owned or held in trust by nonprofit organizations operating for those purposes. This exemption is known as the Welfare Exemption and was first adopted by voters as a constitutional amendment on November 7, 1944. When the Legislature enacted section 214 of the Revenue and Taxation Code to implement the Constitutional provision, a fourth purpose—scientific—was added to the three mentioned in the Constitution.*

There are certain key limitations, though, including:

(1) The owner is not organized or operated for profit. [There are certain looser restrictions for hospitals.]

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

and

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

An important additional restriction is “the charitable [and/or other exempt] activities must be found to primarily benefit persons within the geographical boundaries of the State of California.”

Qualification for the Welfare Exemption sounds a lot like 501(c)(3) qualification, but the property tax exemption is much more restrictive. Put another way, all successful Welfare Exemption applicants are 501(c)(3)s, but not all California 501(c)(3)s are eligible for the Welfare Exemption. And waving the 501(c)(3) determination letter – alone – is not enough to make an organization or its property exempt from California property taxes.

Of course, the devil is in the details; there are many hoops to jump through to establish the organization’s eligibility.

There are some additional exemptions available to select organizations.

### *Two-Tiered Procedure for Welfare Exemption*

There is a two-tiered system for determining eligibility for the Welfare Exemption. It involves both the California Board of Equalization (BOE) and the Assessors’ Offices of each county.

Organizations claiming eligibility for a property tax exemption apply first apply to the Board of Equalization for an “Organizational Clearance

Certificate.” The role of the BOE is to determine if the applicant-organization, itself, is a qualified, eligible applicant.

Next, an approved organization applies to the Assessor’s Office of the county in which the particular real estate parcel in question is located or being used for a determination that the property, itself, meets the stated criteria. The County Assessor may deny any exemption claim if the proposed or actual use does not meet the qualifications.

Eligibility for California’s property tax exemption is on a year-by-year basis; claims must be filed annually.

By the way, revenue from collection of property tax remains with the county in which it’s collected and is available for exclusive use by local governments.

“State laws control the allocation of property tax revenue [...from the key fund, the “1 percent rate”...] to 4,000 local governments with K-14 [school] districts and counties receiving the largest amounts. The distribution of property tax revenue, however, varies significantly by locality.”

#### *Conclusion*

The Board of Equalization publishes detailed information on its website, including “Publication 149 – Property Tax Welfare Exemption,” several other helpful guides, forms, order forms, and county assessors’ information.