Welfare Exemptions

California Community Land Trust Network

Perpetual Affordability – Stewardship - Community Control

Overview

1. What is the Welfare Tax Exemption?
    a. Full or partial exemption from property tax for nonprofits
2. How to qualify?
    a. Restricted to low-income housing or charitable purpose
    b. Must be operated as rental property
3. How to apply?
    a. BOE Forms and local requirements

Overview

4. Other Types of Property Tax relief
   a. Assessment of CLT homeowner-occupied properties
   b. Current and proposed options for LEHCs

What is property tax?

Based on assessed value of land and improvements (building)
- **Usually price at sale or transfer**
- **MUST be taxed at "market value"**

Re-assessed at transfer, even at partial transfer

$$$ - 1% of assessed value is "ad valorum" tax
- **Assessed value is adjusted up to 2% per year from value at transfer**

Includes value of land

Includes local assessments, which are not eliminated through the welfare tax exemption.

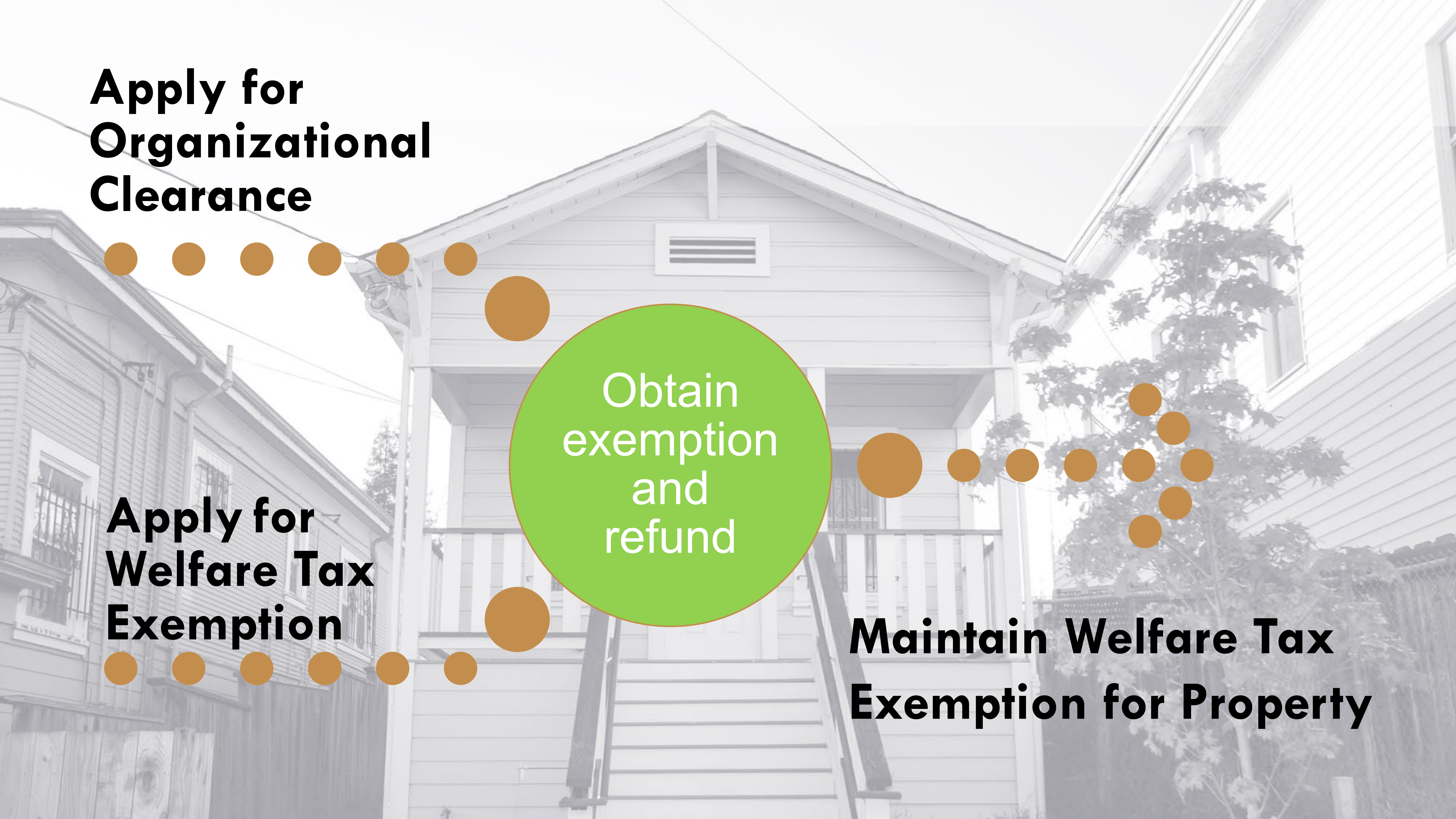
To obtain the Welfare Tax exemption

The ORGANIZATION needs an Organizational Clearance Certificate (OCC).

a. Application filed with the Board of Equalization (BOE)
b. Due to current backlog, may take 1-2 years to obtain.
c. Only one OCC needed for each nonprofit or LLC. Nonprofit tenants should also get an OCC, if possible.

The PROPERTY needs to apply for and obtain a Welfare Tax Exemption

a. Need to apply separately for each property
b. The OCC is required before the exemption can be granted, but the application should be filed as soon as possible.
c. Application is filed with the County


Apply for Organizational Clearance
Apply for Welfare Tax Exemption
Obtain exemption and refund
Maintain Welfare Tax Exemption for Property

Qualifying for the Welfare Tax Exemption

Property Must be **BOTH**:

a. **Owned and Operated by the CLT** or by a limited liability company (LLC), corporation, or partnership in which a nonprofit organization is the managing general partner, AND

b. Be used exclusively for **rental housing** and "related facilities"

Additionally, one of the following must be true:

1. There is any form of government loan or grant, and a deed restriction or regulatory agreement recorded against the property, restricting it to housing for low income households
2. The property owner receives low-income housing tax credits (LIHTC)
3. The property is owned by a nonprofit or charitable trust, AND 90% or more of the occupants are low income AND rents meet affordability guidelines. Also requires an “Other legal document” restricting the property’s use as low-income housing.
4. The property is now owned by a 501(c)(3) organization and was previously purchased by Caltrans by eminent domain.

OR

The property is currently under construction/rehab pursuant to Rev&Tax Code Sec. 214.18

1. Created as part of SB196
2. Advocated for and created by the CA CLT Network
3. Still in early stages of implementation, no forms exist to claim under this section
4. Several CLTs claimed under this for the prior tax year
5. Can be used for 5 years, after which the property MUST be put into use

AFFORDABLE RENT as defined by Health and Safety Code Sec. 50053

(b) For any rental housing development that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent," including a reasonable utility allowance, shall not exceed:

(1) For extremely low income households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.

(2) For very low income households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

AFFORDABLE RENT as defined by Health and Safety Code Sec. 50053

(3) For lower income households whose gross incomes exceed the maximum income for very low income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower income households with gross incomes that exceed 60 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

Alameda County Housing & Community Development

Income Limits

(TCAC as of 4/1/2021, HUD as of 4/1/2021, State HCD as of 4/26/2021)

		HH Size							
Source	Income Level	1	2	3	4	5	6	7	8
TCAC	20%	$19,180	$21,920	$24,660	$27,400	$29,600	$31,800	$33,980	$36,180
TCAC	30%	$28,770	$32,880	$36,990	$41,100	$44,400	$47,700	$50,970	$54,270
HUD[1]	30%	$28,800	$32,900	$37,000	$41,100	$44,400	$47,700	$51,000	$54,300
TCAC	35%	$33,565	$38,360	$43,155	$47,950	$51,800	$55,650	$59,465	$63,315
TCAC	40%	$38,360	$43,840	$49,320	$54,800	$59,200	$63,600	$67,960	$72,360
TCAC	45%	$43,155	$49,320	$55,485	$61,650	$66,600	$71,550	$76,455	$81,405
TCAC	50%	$47,950	$54,800	$61,650	$68,500	$74,000	$79,500	$84,950	$90,450
HUD[1]	50%	$47,950	$54,800	$61,650	$68,500	$74,000	$79,500	$84,950	$90,450
TCAC	55%	$52,745	$60,280	$67,815	$75,350	$81,400	$87,450	$93,445	$99,495
TCAC	60%	$57,540	$65,760	$73,980	$82,200	$88,800	$95,400	$101,940	$108,540
State HCD	60%	$57,540	$65,760	$73,980	$82,200	$88,800	$95,400	$101,940	$108,540
TCAC	70%	$67,130	$76,720	$86,310	$95,900	$103,600	$111,300	$118,930	$126,630
TCAC	80%	$76,720	$87,680	$98,640	$109,600	$118,400	$127,200	$135,920	$144,720
HUD[1]	80%	$76,750	$87,700	$98,650	$109,600	$118,400	$127,150	$135,950	$144,700
TCAC	100%	$95,900	$109,600	$123,300	$137,000	$148,000	$159,000	$169,900	$180,900
State HCD	100%	$87,900	$100,050	$113,050	$125,600	$135,650	$145,700	$155,750	$165,800
State HCD	120%	$105,500	$120,550	$135,650	$150,700	$162,750	$174,800	$186,850	$198,900

Notes:

1. State HCD's 30%, 50%, and 80% income levels match HUD's published 30%, 50%, and 80% income levels.

Alameda County Housing & Community Development
Rent Limits
(TCAC as of 4/1/2021, HUD as of 6/1/2021, State HCD as of 6/1/2021)

		Bedroom Size[1]				
Source	Income Level	ST/SRO	1 BR	2 BR	3 BR	4 BR
TCAC	20%	$479	$513	$616	$712	$795
TCAC	**30%**	**$719**	**$770**	**$924**	**$1,068**	**$1,192**
County HCD[2]	**30%**	**$720**	**$822**	**$925**	**$1,027**	**$1,110**
TCAC	35%	$839	$899	$1,078	$1,246	$1,391
TCAC	40%	$959	$1,027	$1,233	$1,425	$1,590
TCAC	45%	$1,078	$1,155	$1,387	$1,603	$1,788
TCAC	**50%**	**$1,198**	**$1,284**	**$1,541**	**$1,781**	**$1,987**
HUD[3]	**50%**	**$1,198**	**$1,284**	**$1,541**	**$1,781**	**$1,987**
TCAC	55%	$1,318	$1,412	$1,695	$1,959	$2,186
TCAC	**60%**	**$1,438**	**$1,541**	**$1,849**	**$2,137**	**$2,385**
County HCD[2]	**60%**	**$1,438**	**$1,644**	**$1,849**	**$2,055**	**$2,220**
HUD[3]	65%	$1,539	$1,650	$1,982	$2,282	$2,525
TCAC	70%	$1,678	$1,798	$2,157	$2,493	$2,782
TCAC	**80%**	**$1,918**	**$2,055**	**$2,466**	**$2,850**	**$3,180**
County HCD[2]	**80%**	**$1,918**	**$2,192**	**$2,466**	**$2,740**	**$2,960**
TCAC	100%	$2,396	$2,568	$3,082	$3,562	$3,974
County HCD[2]	120%	$2,637	$3,013	$3,391	$3,767	$4,068

LLCs and the Welfare Tax Exemption

An LLC operated by a CLT needs:

a. Its own separate Organizational Clearance Certificate
b. Language in the Articles of Incorporation that relates to welfare tax exemption, and
c. Should have state tax exempt status under section 23701(h)
    a. Turns all operating profit over to a parent company that is a nonprofit

Application for OCC: What is Needed?

1. BOE Forms: BOE-277, along with attachments (follow checklist on form):
   a. Articles of Incorporation (incl. original and all amended versions) certified by the Secretary of State (MUST contain a statement dedicating the assets of the corporation to charitable purposes)
   b. Tax-exempt status letter from the IRS (determination letter) or California FTB (Franchise Tax Board) letter evidencing state tax exemption.
   c. Financial statements (organizational) for the calendar or fiscal year immediately preceding the claim year (first year CLT owned eligible property)
   d. Documentation of activities of organization (web page print-outs, brochures, etc.

Claim for Welfare Exemption: What is Needed?

1. BOE Forms: BOE-267-first filing, along with attachments:
   a. Form BOE-267-L for low-income housing
   b. Form BOE-267-L-A, which technically should be kept on file, some assessors require to see it.
   c. Form BOE-267-O if one or more tenant is another nonprofit or for-profit business
2. Current Financial statements for the property
3. Copy of Deed showing ownership of property
4. A Site map/floorplan showing what portion of the property is for exempt use

Claim for Welfare Exemption: Other Documents

1. Articles of Incorporation/Bylaws
2. Copy of Regulatory Agreement; other legal document, etc.
3. Organization's tax exempt letter: IRS and FTB
4. Income Certification/Documentation in addition to BOE-267-L-A
5. Program material from nonprofit tenants
6. List of actual and allowable rents, actual and allowable incomes
7. Proof of future exempt use for properties under construction/rehab (copy of ground lease, regulatory agreement or other document that shows the property should be eligible)
8. Local assessors may require different documentation, so it is a good idea to meet with your local assessor and exemptions team.

Ongoing – Maintaining Exemption

1. BOE Forms: BOE-267-A, along with attachments:
   a. Form BOE-267-O if one or more tenant is another nonprofit or for-profit business
   b. Other forms or documentation as required
2. Continue to certify tenant income. If possible, obtain income verification beyond the form BOE-267-L-A. These should be maintained in case of audit.

Assessors are elected officials, and have an interest in talking with you.

The local assessor's office has a lot of discretion in terms of applying guidelines

Building relationships with exemptions staff will help to move projects along.

Talk with your local assessor

FAQs

I applied for Welfare Tax Exemption. Do I still need to pay property taxes?

YES

- Failure to pay will result in a lien against the property
- If you are found eligible, taxes you should not have paid will be refunded
- Recommend the creation of property tax reserves to cover property taxes during this period.

Are Limited-Equity Housing Cooperatives eligible for the Welfare Tax Exemption?

NO

- **Well, usually not.**
- **The general consensus among assessors and lawmakers is that LEHCs are a form of ownership therefore granting them the Welfare Exemption violates the state constitution**
- **One reason why a Renter-Operated Nonprofit or "zero-equity" housing cooperative model can make sense.**

Are homeowner-occupied single-family homes and condominiums with a ground lease eligible?

NO

- Homeownership in a CLT is ownership and therefore not eligible for exemption.
- Homeowner-occupied properties in a CLT must be assessed with resale restrictions taken into account to determine "market value" for tax basis.
- AB 2812, which created this, also extended this assessment requirement to LEHCs

Can I apply for past years that my property should have been eligible?

YES

- While it is not possible to get a full exemption for past years that are not filed timely, it should still be possible to recover a percentage of the property taxes paid
- Because these are operating expenses that you shouldn't have, which should be going to support residents and maintain the building, it is always worth trying!

Are there other types of property tax relief that either exist or that the CA CLT Network is trying to create that can support our projects?

YES

- Changes to LEHC and Single-family homeownership assessment were part of AB2818 and incorporated into the tax code. There is still a need for organizations to pursue these changes with their local assessor's office.
- Current legislation, AB 1206 contemplates additional changes that would affect the taxation of LEHCs

Q & A