

1 **THE LANGUAGE SET FORTH IN THIS DRAFT OF PROPOSED**
2 **RULE 143 DOES NOT REFLECT OR REPRESENT THE POSITION**
3 **OF THE BOARD OR ANY BOARD MEMBER.**

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5 **DRAFT OF PROPOSED PROPERTY TAX RULE 143**
6 **REQUIREMENTS FOR IRREVOCABLE DEDICATION CLAUSE**
7 **AND DISSOLUTION CLAUSE**
8 **FOR ORGANIZATIONAL CLEARANCE CERTIFICATE**
9 **FOR WELFARE EXEMPTION**

10
11 **(a) DEFINITIONS.** For the purposes of this regulation:

- 12
13 (1) “Dissolution clause” means a statement in the organizational documents of a
14 qualifying organization that upon the liquidation, dissolution, or abandonment of the
15 qualifying organization, the exempt property will not inure to the benefit of any private
16 person except another qualifying organization.
17
18 (2) “Irrevocable dedication clause” means a statement in the organizational documents of a
19 qualifying organization that the property is irrevocably dedicated exclusively to one or
20 more qualifying purposes.
21
22 (3) “Organizational document” means the articles of incorporation of a corporation, or the
23 bylaws, articles of association, constitution or regulations of a community chest, fund,
24 or foundation, or corporation chartered by an act of Congress.
25
26 (4) “Qualifying organization” means a community chest, fund, foundation, nonprofit
27 corporation, or eligible limited liability company, organized and operated exclusively
28 for religious, hospital, scientific, or charitable purposes. Charitable purposes include
29 educational purposes as defined in Revenue and Taxation Code section 214,
30 subdivision (j).
31
32 (5) “Qualifying purpose” means a religious, hospital, scientific or charitable purpose.
33 Charitable purposes include educational purpose as defined in Revenue and Taxation
34 Code section 214, subdivision (j).
35

36 **(b) IN GENERAL.** In order to qualify for the welfare exemption provided in Revenue and
37 Taxation Code section 214, among other requirements specified therein, the property owned by
38 a qualifying organization must be irrevocably dedicated exclusively to a qualifying purpose, and
39 upon the liquidation, dissolution, or abandonment of the qualifying organization, the property
40 will not inure to the benefit of any private person except another qualifying organization. In
41 order to satisfy these requirements, the organizational document of the qualifying organization
42 must contain both an irrevocable dedication clause, which meets the requirements set forth in
43 subdivision (c) below, and a dissolution clause, which meets the requirements set forth in
44 subdivision (d) below.
45

46 **(c) IRREVOCABLE DEDICATION CLAUSE.** Property is deemed to be irrevocably dedicated
47 exclusively to a qualifying purpose provided that a qualifying organization’s organizational

1 document contains a statement that irrevocably dedicates its property exclusively to a
2 qualifying purpose.

3
4 (1) If the organization’s charitable purpose is educational purposes as defined in Revenue and
5 Taxation Code section 214, subdivision (j), the irrevocable dedication clause shall state that
6 the property is irrevocably dedicated to educational purposes as defined in section 214,
7 subdivision (j), or that the property is irrevocably dedicated to charitable and educational
8 purposes meeting the requirements of Revenue and Taxation Code section 214.

9
10 (2) If the irrevocable dedication clause states that the property is dedicated to purposes other
11 than the qualifying purposes, the property does not qualify for the welfare exemption.

12
13 (3) If the irrevocable dedication clause states that the property is irrevocably dedicated to a
14 “public” or “public benefit” purpose, the property does not qualify for the welfare
15 exemption.

16
17 (4) The following examples illustrate irrevocable dedication clauses as defined in subdivision
18 (a)(3) above:

19
20 Example No. 1: The property owned by this organization is irrevocably dedicated to
21 charitable, scientific, hospital, or religious purposes.

22
23 Example No. 2: The property owned by this organization is irrevocably dedicated to
24 charitable and educational purposes meeting the requirements of Revenue and Taxation
25 Code section 214.

26
27 Example No. 3: The property owned by this organization is irrevocably dedicated to
28 educational purposes as defined in Revenue and Taxation Code section 214, subdivision (j).

29
30 Example No. 4: The property located in California owned by this organization is irrevocably
31 dedicated to charitable, scientific, hospital, or religious purposes.

32
33 Example No. 5: The property owned by this organization is irrevocably dedicated to
34 charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

35
36 Example No. 6: The property of this corporation is irrevocably dedicated to charitable
37 purposes and no part of the net income or assets of this corporation shall ever inure to the
38 benefit of any director, officer or member thereof or to the benefit of any private person.

39
40 **(d) DISSOLUTION CLAUSE.** In order to qualify for the welfare exemption, the qualifying
41 organization’s organizational document must contain a dissolution clause, which specifically
42 states that its property will be distributed to another qualifying organization entity upon its
43 liquidation, dissolution, or abandonment.

44
45 (1) If the dissolution clause in the organizational document designates a specific organization to
46 receive the distribution, it must state and the designated organization must be a qualifying
47 organization that is organized and operated for a qualifying purpose.

1 (2) The dissolution clause of the qualifying organization may provide that, upon the liquidation,
2 dissolution, or abandonment of the qualifying organization, the property will inure to the
3 benefit of a governmental entity.
4

5 (3) The following examples illustrate dissolution clauses as defined in subdivision (a)(1) above:
6

7 Example No. 1: Upon the liquidation, dissolution or abandonment of this organization, its
8 assets, remaining after payment or provision of payment of all debts and liabilities of this
9 organization, shall be distributed to an organization organized and operated for a charitable,
10 scientific, hospital, or religious purpose meeting the requirements of Revenue and Taxation
11 Code section 214.
12

13 Example No. 2: Upon the liquidation, dissolution or abandonment of this organization, the
14 proceeds or assets related to property located in California, remaining after payment or
15 provision of payment of all debts and liabilities of this organization, shall be distributed to
16 an organization organized and operated for a charitable, scientific, hospital, or religious
17 purpose meeting the requirements of Revenue and Taxation Code section 214.
18

19 Example No. 3: Upon the liquidation, dissolution or abandonment of this organization, its
20 assets, remaining after payment or provision of payment of all debts and liabilities of this
21 organization, shall be distributed to an organization organized and operated exclusively for
22 charitable and educational purposes meeting the requirements of Revenue and Taxation
23 Code section 214.
24

25 Example No. 4: Example No. 4: Upon the liquidation, dissolution or abandonment of this
26 organization, its assets, remaining after payment or provision of payment of all debts and
27 liabilities of this organization, shall be distributed to an organization organized and operated
28 exclusively for educational purposes meeting the requirements of Revenue and Taxation
29 Code section 214, subdivision (j).
30

31 Example No. 5: Upon the dissolution or winding up of the corporation, its assets remaining
32 after payment, or provision for payment, of all debts and liabilities of this corporation shall
33 be distributed to a nonprofit fund, foundation or corporation which is organized and
34 operated exclusively for charitable purposes and which has established its tax exempt status
35 under section 501(c)(3) of the Internal Revenue Code.
36

37 Example No. 6: Upon the dissolution or winding up of the organization, its assets remaining
38 after payment or provision of payment of all debts and liabilities of this organization, shall
39 be distributed to a nonprofit organization which is organized and operated exclusively for
40 charitable purposes.
41

42 **(e) FAILURE TO MEET REQUIREMENTS.**
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44 (1) If, at the time of filing, the applicant's organizational document does not contain an
45 irrevocable dedication clause and/or a dissolution clause which meets the requirements of
46 subdivisions (c) and (d), respectively, the organization does not qualify for the
47 Organizational Clearance Certificate under Revenue and Taxation Code section 254.6.
48 However, the applicant may be issued an Organizational Clearance Certificate for the fiscal

1 year for which the Organizational Clearance Certificate is requested on its application if the
2 applicant amends its organizational documents and submits a certified copy of the
3 amendment to the State Board of Equalization by the next succeeding lien date.
4

- 5 (2) If, at the time of filing, applicant's organizational documents did not contain an irrevocable
6 dedication clause and/or a dissolution clause which meets the requirements of subdivisions
7 (c) and (d), respectively, and the applicant amends its organizational documents after the
8 next succeeding lien date, an Organizational Clearance Certificate may be issued under
9 Revenue and Taxation Code section 254.6 for the fiscal year following the lien date by
10 which the applicant amends its organizational documents and submits a certified copy of the
11 amendment to the State Board of Equalization.
12
- 13 (3) If the applicant amends its articles of incorporation, the amended articles must be filed with
14 the Secretary of State's office and an endorsed copy must be provided to the State Board of
15 Equalization.
16
- 17 (4) The county assessor may not approve a welfare exemption claim until the State Board of
18 Equalization has issued an Organizational Clearance Certificate under Revenue and
19 Taxation Code section 254.6.
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