

CMRTA Division 4 Webinar Series #3 - Exemptions

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2020 Business Tax Exemptions



California and beyond

Federal Exemptions

Federal exemptions
are granted by:

- IRS (Internal Revenue Service)
- US Constitution
- Bill of Rights

Activities Exempted by
the Federal Government:

- Interstate Commerce
- Religious Activities
- Charitable Institutions
& Non Profit
organizations**



State Exemptions

- Banks & Financial Institutions
- Insurance Companies
- Bail Bond Agents
- Residential Care Centers- In Home Day Care
- Laundry Equipment & Coin Vending machines
- Veterans
- Blind Persons
- Cafe' Musicians
- Real Estate Auctioneers.
- Charitable Institutions & Non-Profit Organizations**
- Motor Carriers



Who Grants State Exemptions?



CDTFA

California Constitution

Business & Professions Code

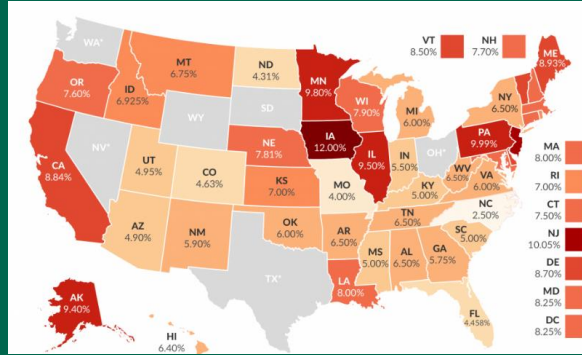
DMV

Public Utilities Code

Not knowing who is exempt and how to verify the
Exemption puts your agency at a disadvantage.

SEE The Proof....

Why are some Profitable Businesses in California Exempt from Business Tax?



(2020 8.84%)

The State of California requires certain classes of business to pay a tax to the State called an **In-Lieu Tax**: A tax amount greater than the standard corporate rate, paid to the State of California in-lieu of local city or county tax.

Insurance Companies

- Insurance Companies are exempt IF...They provide proof of payment of the **In-Lieu Tax** to the State of California, Department of Insurance.

The exemption can be found in the California Constitution, Article 13, sec 28, (F)

- Proof – Copy of the most recent payment to the CDI and forms submitted with payment. (many agencies also require a signed questionnaire)



Insurance Agents/Brokers

Agents/brokers may be exempt if the agent appointments are only with companies that pay the In-Lieu Tax

The exemption can be found in the California Constitution, Article 13, sec 28, (F)

Proof:

Individual agent/broker: CDI website lists all agent appointments. All you need is a license number to view individual agent appointments.

<http://www.insurance.ca.gov/0200-industry/0008-check-license-status/index.cfm>

(see example)

Bail Bonds



- Bail Bonds are agents for Insurance Companies.
- The exemption was challenged by City of Los Angeles, and was upheld in (decision)
- Grove v. Los Angeles (40 cal 2d 751.256)
- Bail Bonds should be treated as insurance sellers, same proof should be required, Must comply with all regulations.

Banks & Financial Institutions

- Most Banks & Financial Institutions pay the Department of Finance an In-Lieu Tax.
- The exemption can be found:
 - California Constitution Article 13, sec 27
 - Rev & Tax Code, Section 23182
- **Proof:** Qualifying Questionnaire & Form 100 of the FTB Report. (additional back up may be necessary)
- With Proof of in-Lieu Payment an exempt license should be issued- must comply with all regulations.



Mortgage Lenders

- Only **SOME** Mortgage brokers pay the In-Lieu Tax. Most do not. Most loan officers are independent contractors whose gross receipts are not included in the company's tax filing.





Interstate Commerce

- Taxing by individual jurisdictions is thought to create “Undue Burden”
- The exemption can be found in Article 1, Section 8 of the United States Constitution.
- According to this section you cannot impose a tax on sales outside of California.

Religious Activities



- In California Religious organizations may register as non-profit and religious activities are protected by the US Bill of Rights
- The exemption can be found:
 - California Rev & Tax Code Section 23701(d)(state)
 - 1st Amendment of the Bill of Rights (federal)
- All religious activities must still comply with zoning or other City requirements, but no tax can be collected.
- Always “SEE” the proof

Veterans

- Soldiers who served and were Honorably Discharged. AND are the sole owner of a business.
 - Business & Professions code:
 - Code Section 16001, 16001.5, 16001.7 & newly added 16001.8
With proof of honorary discharge a business license should be issued free of charge.*
 - Must comply with all regulations.
- * (see code) attached



Bill Text

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

SECTION 1.

Section 16001.8 is added to the Business and Professions Code, to read:

16001.8.

(a) A veteran who is honorably discharged or honorably relieved from the Armed Forces of the United States and is a resident of this state shall not be required to pay any local business license fees for a business selling or providing services if the veteran is the sole proprietor of the business.

(b) The Legislature finds and declares that the prohibition on the imposition of local business license fees on veterans as specified in this section is a matter of statewide concern and is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

Section 16001.8

An act to add Section 16001.8 to the Business and Professions Code, relating to business licensing.

[Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 498, Weber. Business licensing: fees: exemptions: veterans.

Existing law provides that every person who is honorably discharged or honorably relieved from the military, naval, or air service of the United States and is a resident of this state is entitled to obtain a license to distribute circulars and sell any goods, except alcohol, without payment of any state or local business license fees.

This bill would also exempt a veteran who is honorably discharged or honorably relieved from the Armed Forces of the United States and is a resident of this state from paying any local business license fees for a **business that sells or provides services if the veteran is the sole proprietor of the business.**

This bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

Residential Care Centers & In Home Childcare

- The State of California promotes residential care and finds business tax to be a burden on small operators.
- Exemptions found: Health & Safety Code:
 - Residential Care Centers Section 1566.2
 - In Home Child Care for 8 or less Section 1596.75c
- UPDATED 2019-1596.72 (Family daycare homes for 14)
Residential Community Care Section 1567.8
- No license is required and no regulations apply to small residential care facilities..



Section 1596.72 of the Health and Safety Code as amended November 18, 2019

Family Daycare Homes/ Business License Exclusion: Requires that local governments treat licensed large family childcare homes (14 children) in the same manner as small family childcare homes (8 children) as a residential use of property for the purposes of all local ordinances. Existing law prohibits a local jurisdiction from imposing a business license, fee, or tax for the privilege of operating a small family daycare home. This bill would extend that prohibition to large family daycare homes. (SB 234/ Skinner)

Motor Carriers



- The State preempts local tax on property carriers, household or for hire transport businesses. (DMV motor carrier permit)
- Household goods: Pub utility code 5325
- Motor Carrier of Property: Rev & tax 7231
- Passenger carrier: Pub utility code 4001
- If a carrier is regulated and pays an in-lieu business tax
Local Government may not tax on the transportation portion of the business. If the business has an office in your jurisdiction you may tax on expenses, employees etc.

Charitable Institutions & Non-Profit Organizations



- Historically, charities were developed to meet certain needs of society.
- Exemptions both Fed and State:
 - Federal Internal Revenue Code 501(c) 3.
 - Rev & Tax code Section 23701 (a-s)
- All non-profit or charitable institutions (see the proof) must follow all regulations within the city, but may obtain a business license free of charge.

Charitable/Commercial Fund Raisers

- Fund raising companies are **NOT** exempt. They may be soliciting on behalf of non-profit or charitable organizations, but they are not exempt.
- Unless they qualify as non-profit (previous slide) they are not exempt. A business license tax may be collected and all regulations apply.



Real Estate Auctioneers

- No Tax for the privilege of auctioning real estate (exclusively) may be charged, except where he has a permanent place of business.
- Business & Professions code 16002.1
- Auctions which take place in the City may not be taxed. Offices may be taxed on expenses # employees etc. All Regulations apply.



16002.1.

No license fee for the privilege of auctioning real estate may be collected from any real estate auctioneer, whose business is limited exclusively to auctioning real estate, except by the city in which he has a permanent place of business.

(Added by Stats. 1968, Ch. 1312.)



Blind Persons

- Operators of “Vending” facilities who are blind may not be charged a business tax.
- State Welfare Code Section 19633
- With the issuance of a license from the department of rehabilitation, a business license should be issued without charge.
- Must comply with all regulations.



Laundry Equipment & Coin-Operated Vending Machines

- Why??? Good Question
- Business & Professions Code 16002
- Laundry Equipment 16002.2
- Coin Operated Vending Machines 16002.5
- ***Only*** Gross Receipts derived from the business in the City may be taxed. NOT per machine or employee.



Café Musicians

- Applies to Regulatory licenses only.
- Exemption can be found in:

Business & Professions code 16000.5

If your license is regulatory (not just revenue generating) you cannot require a regulatory business license from café musicians.

Other Possible Exemptions:

Your own agency may provide
Exemptions

Know your Municipal Code.

Sample - Proof required text:

Re: Exempt Business License Status

We have received your request for exempt business license status. Please note, the below proof of exempt status must be provided:

1. A copy of your most recent “in-lieu” premium tax payment to the CDI (California Department of Insurance).
2. A completed, signed and dated copy of the attached Qualifying Questionnaire.

Example: CDI Agent/Broker License Details

Individual License Details

The license status information shown below represents information taken from the California Department of Insurance (CDI) licensing database at the time of your inquiry. This information may not always be current. For example, items sent to the CDI may be pending review or simply may not have yet been entered into our licensing database. For instance, continuing education hours quoted may not reflect courses taken in the last 45 days. This database will reflect concluded disciplinary actions against licensees. Complaints and ongoing investigations are confidential and, therefore, not available.

Sections 12938 and 12968 of the California Insurance Code, in part, require the CDI to make all fully executed stipulations, orders, decisions, and settlements available to the public on its Web site. You can search for key documents regarding any enforcement action the department has filed against this licensee on the [Enforcement Action Documents Search Page](#). Please note [Enforcement Action Documents](#) (i.e. legal pleadings and orders generated during the enforcement action) are available on this Web site only for enforcement actions taken on or after July 1, 2001. If an enforcement action was taken prior to July 1, 2001, this Web site will only provide a summary description of the enforcement action. Documents relating to actions taken prior to July 1, 2001 may be obtained by submitting a written request to the CDI.

Glossary of Terms

Name: KATZ AARON CALEB

License#: 0G03397

Resident Insurance Producer

License type: Property Broker-Agent

Status:
Active

Status Date:
03/13/2008

Expiration Date:
03/31/2014

Resident Insurance Producer

License type: Casualty Broker-Agent

Status:
Active

Status Date:
03/13/2008

Expiration Date:
03/31/2014

Business Address: 7011 KOLL CENTER PKWY STE. 180 PLEASANTON, CA 94566

Example: CDI Agent/Broker Company Appointments.

Company Appointments

This licensee is authorized to transact on behalf of the following:

FOREMOST SIGNATURE INSURANCE COMPANY	For: Casualty Broker-Agent	Effective: 08/01/2013
FOREMOST PROPERTY AND CASUALTY INSURANCE COMPANY	For: Property Broker-Agent	Effective: 08/01/2013
FOREMOST PROPERTY AND CASUALTY INSURANCE COMPANY	For: Casualty Broker-Agent	Effective: 08/01/2013
FOREMOST INSURANCE COMPANY GRAND RAPIDS, MICHIGAN	For: Property Broker-Agent	Effective: 08/01/2013
FOREMOST INSURANCE COMPANY GRAND RAPIDS, MICHIGAN	For: Casualty Broker-Agent	Effective: 08/01/2013
FOREMOST SIGNATURE INSURANCE COMPANY	For: Property Broker-Agent	Effective: 08/01/2013
METROPOLITAN DIRECT PROPERTY AND CASUALTY INSURANCE COMPANY	For: Fire and Casualty Broker-Agent	Effective: 02/18/2010
HARTFORD CASUALTY INSURANCE COMPANY	For: Property Broker-Agent	Effective: 08/19/2009
HARTFORD ACCIDENT AND INDEMNITY COMPANY	For: Casualty Broker-Agent	Effective: 07/29/2009
HARTFORD ACCIDENT AND INDEMNITY COMPANY	For: Fire and Casualty Broker-Agent	Effective: 07/29/2009
HARTFORD ACCIDENT AND INDEMNITY COMPANY	For: Property Broker-Agent	Effective: 07/29/2009
HARTFORD CASUALTY INSURANCE COMPANY	For: Casualty Broker-Agent	Effective: 08/19/2009
HARTFORD CASUALTY INSURANCE COMPANY	For: Fire and Casualty Broker-Agent	Effective: 08/19/2009

Agencies or Organizations

This licensee is authorized to transact on behalf of the following:

CHARLES KATZ INSURANCE SERVICES	For: Casualty Broker-Agent	Effective: 10/01/2009
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16001. Every honorably discharged or honorably relieved soldier, sailor, or marine of the United States or Confederate States who served in the Civil War, any Indian war, the Spanish-American War, any Philippine insurrection, the Chinese Relief Expedition, the World War of 1914 and years following, or World War II, who is physically unable to obtain a livelihood by manual labor, and who is a voter of this state, may distribute circulars, and hawk, peddle, and vend any goods, wares or merchandise owned by him, except spirituous, malt, vinous, or other intoxicating liquor, without payment of any license tax or fee whatsoever, whether municipal, county or state, and the legislative body shall issue to such soldier, sailor or marine, without cost, a license therefor.

16001.5. Every person who was honorably discharged or honorably relieved from the military, naval or air service of the United States who served on or after June 27, 1950, and prior to February 1, 1955, or on or after August 5, 1964, and prior to a future date to be established by the Legislature, who is physically unable to obtain a livelihood by manual labor, and who is a resident of this state, may distribute circulars, and hawk, peddle, and vend any goods, wares or merchandise owned by him, except spirituous, malt, or vinous, or other intoxicating liquor, without payment of any license tax or fee whatsoever, whether municipal, county or state, and the legislative body shall issue to such person, without cost, a license therefor.

16001.7. Every person who is honorably discharged or honorably relieved from the military, naval or air service of the United States and who is a resident of this state, may distribute circulars, and hawk, peddle and vend any goods, wares, or merchandise owned by him or her, except spiritous, malt, or vinous, or other intoxicating liquor, without payment of any business license fee, whether municipal, county, or state, and the legislative body shall issue to that person, without cost, a license therefor.

Previous Veteran Exemption Sections:

CMRTA Div 4 Webinar Series

#3 - Exemptions

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