



Tax Exemption and Refund Claims Filing for Property Leased by the University

Responsible Officer: Executive Vice President-Chief Financial Officer

Responsible Office: Financial Management

Effective Date: January 17, 2012

Date of Last Review: October 16, 2006

Scope: This policy applies to property leased by the University within the jurisdiction of the State of California.

Contact: John Barrett
Email: john.barrett@ucop.edu
Phone #: 510-987-0903

- I. Policy Summary
- II. Policy Definitions
- III. Policy Text
- IV. Compliance / Responsibilities
- V. Procedures
- VI. Related Information (Forms, hyperlinked references)
- VII. Frequently Asked Questions (optional)
- VIII. Revision History

I. POLICY SUMMARY

It is the policy of the University to avail itself of the real and personal property tax exemption afforded the University on leased property under the Amendment to the California Constitution in Proposition 8.

II. POLICY DEFINITIONS

N/A

III. POLICY TEXT

A. *Introduction*

In November 1974, California voters passed Proposition 8, the measure that was written into the California Constitution as, Article XIII, Section 3(d), and the University of California as a State university became exempt from leased property taxation. Chapter 936, Statutes of 1978 (also known as Senate Bill 2006), pertinent provisions of which have been added to the California Revenue and Taxation Code as Section 202.2, mandates the pass-on from the lessors to the University of the economic benefit of the property tax savings. The pass-on may be made under the following options:

1. The lessor pays the property tax, and then the University will file for the tax exemption with the lessor's cooperation;
2. The lessor obtains exemption and excludes property taxes from rent or operating expenses; or
3. The lessor obtains exemption and pays the amount saved to the University or credits it against rent.

The policy presented in this Bulletin does not apply to property leased by the University outside the jurisdiction of the State of California, though there may be opportunities in those out-of-state jurisdictions that would permit UC to be exempted. Those opportunities should be reviewed as they occur.

Special Assessments and Local Property Related to Proposition 218 Assessments:

There are special considerations when assessments under Proposition 218 are imposed. The campuses should refer to the [Guidelines For Proposition 218 Assessments](#) issued in March 2009 by the Office of General Council. As necessary, campuses should consult the UCOP Real Estate Services Group or the Office of General Counsel.

B. *Contract Language*

Each contract entered into by the University for lease of property, real or personal, shall include specific language in Article 5 of [The Regents of the University of California Standard Lease Form, The Regent as Tenant](#), based on the guidelines shown below, with the intent to pass on to the University the economic benefit of the property tax exemption.

1. Option 1 [see Section III.A.1]

If the lessor agrees to option 1, the following in the contract applies:

“Landlord hereby affirms that the eligibility of the Premises for exemption from property tax pursuant to Article XIII, Section 3(d) of the California Constitution was not taken into account in fixing the rental to be paid by the Tenant hereunder; and Landlord agrees neither to file a claim for such exemption nor to claim the benefit thereof by any other means. The parties mutually agree that property taxes on the Premises shall be paid in full by Landlord and that the Tenant shall thereafter apply to the County of _____, California, for direct refund to the Tenant of taxes paid, in the amount of said exemption, as provided by Section 202.2 of the California Revenue and Taxation Code. Landlord agrees to cooperate with Tenant and do all acts reasonably necessary and appropriate to secure and maintain the said tax exemption of the Premises.”

2. Option 2 [see Section III.A.2]

If the lessor agrees to option 2, the following in the contract applies:

“The Premises will be exempt from property taxes (including supplemental taxes, with the possible exception of special assessments and other ad valorem assessments), pursuant to Article XIII, Section 3(d) of the California Constitution, as a result of the University of California's exclusive use thereof. Tenant acknowledges that, in recognition of such exemption, the Landlord has excluded property taxes from the rental rate herein provided. Therefore, Tenant will do all things reasonably necessary and appropriate to secure and maintain the said tax exemption during the term of this Lease and agrees to reimburse Landlord for any property taxes on the Premises (excluding special assessments or other ad valorem assessments) that may become due and payable during the Lease Term or Extended Term because of Tenant's failure to file a timely exemption.”

3. Option 3 [see Section III.A.3]

If the lessor agrees to option 3, the following in the contract applies:

“Landlord will cooperate with Tenant and do all acts reasonably necessary and appropriate to secure and maintain tax exemption of the Premises pursuant to Article XIII, Section 3 of the California Constitution. Landlord will forward the amount of any reduction of tax resulting from such exemption either in the form of a cash payment or a rental credit to Tenant as soon as possible after Landlord receives the benefit of the tax exemption.

If such exemption is granted for a fiscal year which is, in whole or in part, after the date of expiration or earlier termination date of this Lease, then, with respect to that portion of such fiscal year which is after the expiration of the term of this Lease, Landlord will pay Tenant the amount of such reduction of tax in cash.”

IV. COMPLIANCE / RESPONSIBILITIES

Function	Responsibilities
Executive Vice President-Chief Financial Officer	<ul style="list-style-type: none">Establishing and updating the procedures set forth in this Bulletin.
Chancellors and Laboratory Director	<ul style="list-style-type: none">Designating a fiscal or administrative unit (e.g. the Controller's Office; Real Estate Services Office) to handle the campus/Laboratory tax exemption and refund claiming on leased property.
Campus and Lab Controller's Office	<ul style="list-style-type: none">Dealing with the campus/Laboratory tax exemption and refund claiming on leased property.
Vice President-Agriculture and Natural Resources	<ul style="list-style-type: none">Dealing with tax exemption and refund claiming for real property leased under Agriculture and Natural Resources.
Associate Vice President-Business Operations	<ul style="list-style-type: none">Dealing with tax exemption and refund claiming for all other real property leased for Systemwide Administration immediate use.
Campus/Laboratory Leased Property Tax Exemption Coordinator	<ul style="list-style-type: none">Filing the Lessors' Exemption Claim on Behalf of the Campus/Laboratory (see Section V.).

V. PROCEDURES

A. *Paying the Property Tax*

1. Option 1: Where Contract Calls for Lessor to Pay the Property Tax and then the University Files for the Tax Exemption with the Lessor's Cooperation [see Section III.A.1].
 - a. When property tax is to be paid, payments are to be made by the lessor on the dates indicated below:
 - i. Personal property. Taxes are due (100%) on August 30 of each year.
 - ii. Real property. Taxes are on a fiscal year basis. One-half of the tax payment is due no later than December 10; the remaining half is due no later than April 10.

b. Filing Form BOE-263, *Lessor's Exemption Claim*, on Behalf of the University – see the sample in [Exhibit A](#).

- i. Prior to February 15 of each year an ample supply of Lessors' Exemption Claim forms should be obtained from each County Assessor's Office in counties where leased property is located.
- ii. On March 1, but no later than March 5, of each year, the campus/Laboratory leased property tax exemption coordinator should check the terms and conditions of each leased property contract to determine the method agreed to by the lessor for passing on to the University the economic benefit of the property tax exemption. Once the method is verified, the coordinator should execute the affidavit on the reverse side of the Lessors' Exemption Claim form (3 copies each for every item of leased property). This affidavit affirms that the given piece of property is being used by the University.

The front side of the Lessors' Exemption Claim form should supply as much identification and information as possible. For example, in the case of personal property, identifications such as model number and serial number are an absolute requirement by County offices; they should be readily supplied.

Once the affidavit is executed, the coordinator should send the claim to the lessor by certified mail, with return receipt requested. In mailing the claim, the coordinator should provide the following instructions to the lessor:

- to complete the entries on the front side of the form;
- to file the original with the Appropriate County Assessor's Office by March 15;
- to return the second copy to the University; and
- to retain the third copy for the lessor's file.

c. Filing for Refund, Form BOE-268-A, *Exemption for Property Used Exclusively by a Public School*, is available at each county assessor's website – see the sample in [Exhibit B](#).

- i. On or about March 15 of each year, an ample supply of the above described-refund claim forms should be obtained from each County Treasurer's Office in counties where leased property is located.
- ii. The campus/Laboratory leased property tax exemption coordinator should check the terms and conditions of each leased property contract to determine the method agreed to by the lessor for passing on to the University the economic benefit of the property tax exemption [see Section III.B., above].

- iii. Once the method has been determined, the campus/Laboratory leased property tax exemption coordinator should complete the refund claim form for each contract in which the pass-on method stipulated is for the lessor to pay the property tax and then for the University to file for the tax exemption with the lessor's cooperation. [see Section III.A.1, above.] The piece of property under the contract must be completely described, including site or location so that it may be readily identified.
 - iv. The completed refund claim forms are to be filed with the Clerk of the County Board of Supervisors. Refund claims should be filed immediately after the tax payments have been made, but in no case should claims be filed any later than four years from the tax payment due date or the date the tax payment was made, whichever occurred first.
2. Option 2: Where Contract Calls for Lessor to Claim Tax Exemption at the Outset and Exclude Property Taxes from Rent or Operating Expenses [see Section III.A.2].
- a. Under this option, no tax payment is made. The lessor sends the University a bill with the property tax excluded from the bill.
 - b. Filing Form BOE-263, *Lessor's Exemption Claim*, on Behalf of the University – see the sample in [Exhibit A](#).
 - i. The procedures for filing the Lessors' Exemption Claim forms are the same as for option 1) (see Section V.A.1.b., above).
 - c. Filing for Refund.
 - i. With respect to filing for refund, no claim is to be filed inasmuch as no tax payment was made in the first place.
3. Option 3: Where Contract Calls for Lessor to Claim Tax Exemption at the Outset and Pay the Amount Saved to the University or Credit It Against Rent [see Section III.A.3].
- a. Under this option, no tax payment is made. The lessor either repays the University cash for the tax savings, or credits the tax amount against payments due from the University if billing includes the tax.
 - b. Filing Form BOE-263, *Lessor's Exemption Claim*, on Behalf of the University – see the sample in [Exhibit A](#).
 - i. The procedures for filing the Lessors' Exemption Claim forms are the same as for option 1) (see Section V.A.1.b., above).
 - c. Filing for Refund.
 - i. With respect to filing for refund, no claim is to be filed inasmuch as no tax payment was made in the first place.

VI. RELATED INFORMATION

- California Constitution, Article XIII, Section 3(d)
- California Revenue and Taxation Code Section 202.2
- [Publication 29](#), California Property Tax Publication, An Overview, August 2009
- [List of Exemptions](#), California Board of Equalization
 - Public School Exemption
 - Lessor's Exemption
- [The Regents of the University of California Standard Lease Form, The Regent as Tenant](#)
- [Lease Description of The Regents of the University of California Standard Lease Form, The Regent as Tenant](#)
- [Exhibit A](#) - Lessors' Exemption Claim Sample
- [Exhibit B](#) - Refund Claim Sample

VII. FREQUENTLY ASKED QUESTIONS

N/A

VIII. REVISION HISTORY

- October 1, 1982: Originally Published
- October 16, 2006: Revised
- January 17, 2012: the following changes have been made to this policy to better align with the California Revenue and Taxation Code as well as the University's Standard Lease of Real Property:
 - The lessor obtains exemption and excludes property taxes from rent or operating expense;
 - The lessor obtains exemption and pays the amount saved to the University or credits it against rent; and
 - Removed "for educational purposes" as a condition for the University's use of leased real property.
 - Addressed the treatment of Proposition 218 Assessments.