

# Exhibit A



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**PROPERTY TAX EXEMPTIONS FOR CERTAIN COMMERCIAL VESSELS**

**Cal. Rev. & Tax. Cd. § 209 Vessels exemption.**

The exemption of certain vessels from taxation except for State purposes is as specified in subdivision (l) of Section 3 of Article XIII of the Constitution.

(§ 209 enacted by Stats. 1939; amended by Stats. 1974, c. 311, § 16.)

**EXEMPTION FOR VESSELS OF MORE THAN 50 TONS BURDEN (> 50 Net Tons)**

Article XIII, Section 3, Subdivision (l) of the California Constitution provides that vessels of more than 50 tons burden and **engaged in the transportation of freight or passengers are exempt from property taxation.**

With respect to this provision, "50 tons burden" shall mean "50 tons *net* burden" as registered in the United States Customs Office. In *Kiessig v. County of San Diego*,<sup>610</sup> the court determined that it would rely on case law and upon the provision of the federal shipping act which defines "tonnage," being that "tons burden" meant "net tons," or "net register tonnage." In allowing the exemption, an appraiser should verify the net tonnage on a specific vessel. Certificates of Documentation state the gross and net tonnage of a vessel. An appraiser may also locate a specific Coast Guard documented vessel from the Coast Guard's Internet web site<sup>61</sup> by entering the vessel's name or ID number. In addition to its net tonnage, information such as the owner's name, the vessel's age, length, horsepower, etc. is also available.

To qualify for the exemption, a vessel must be exclusively engaged in the transportation of freight or passengers or at least primarily so engaged. This constitutional provision does not allow a proration of the exemption. Therefore, if a vessel qualifies, the exemption is allowed in its entirety. This applies even if the vessel is used 80% of the time in the exempt activity and 20% of the time in other activities, such as towing operations;<sup>62</sup> incidental use for other purposes does not affect qualification for the exemption.<sup>63</sup>

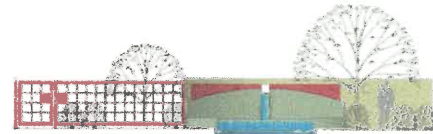
**860.0021 Exemption.** Exemption requires that an appropriately sized vessel be the carrying of freight (property transported by a carrier from a consignor to a consignee) or passengers (travelers by some established conveyance) for hire (*Dragich v. Los Angeles County* (1939) 30 Cal.App.2d 397. When the vessel is used by a subsidiary corporation to transport for hire the property of a parent corporation, the relationship between the subsidiary corporation and the parent must be examined to determine whether the subsidiary corporation is a mere instrumentality, conduit, or agent for the parent corporation. If the corporate entity of the subsidiary corporation can be disregarded, the parent and subsidiary can be treated as one unit, thus defeating any claim that the vessels are transporting freight for hire. C 10/22/86.

<sup>60</sup> 51 Cal.App.2d 47 (1942).

<sup>61</sup> [www.st.nmfs.gov/commercial/index.html](http://www.st.nmfs.gov/commercial/index.html).

<sup>62</sup> *Star and Crescent Boat Company v. County of San Diego* (1958) 163 Cal.App. 2d 534.

<sup>63</sup> This differs from exempt activities outlined under section 227, where a vessel must be engaged *exclusively* in such activities.



**960.0022 Exemption.** The phrase "engaged in the transportation of freight or passengers" has been interpreted by the courts to mean "engaged in the transportation of property or persons for hire." While the California Constitution does not expressly require that exempt vessels be used "exclusively" for transportation purposes, the cases speak in terms of "primary," "principal," or "predominant" use. Thus, when an appropriately-sized vessel engages only partially in qualifying transportation activities, it will qualify for the exemption provided by section 3(1) of article XIII thereof only if the vessel is *primarily* engaged in such activities. In order for the vessel to be found to be "primarily engaged" in qualifying transportation, it must spend more than 50 percent of its time in such activity. C 2/8/2000.

CALIFORNIA CONSTITUTIONAL PROVISIONS

ARTICLE XIII REVENUE AND TAXATION  
SECTION 3

Sec. 3. **Exempt property.** The following are exempt from property taxation:

- (a) Property owned by the State.
- (b) Property owned by a local government, except as otherwise provided in Section 11(a).
- (c) Bonds issued by the State or a local government in the State.
- (d) Property used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities.
- (e) Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education.
- (f) Buildings, land on which they are situated, and equipment used exclusively for religious worship.
- (g) Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit. This property is also exempt from special assessment.
- (h) Growing crops.
- (i) Fruit and nut trees until 4 years after the season in which they were planted in orchard form and grape vines until 3 years after the season in which they were planted in vineyard form.
- (j) Immature forest trees planted on lands not previously bearing merchantable timber or planted or of natural growth on lands from which the merchantable original growth timber stand to the extent of 70 percent of all trees over 16 inches in diameter has been removed. Forest trees or timber shall be considered mature at such time after 40 years from the time of planting or removal of the original timber when so declared by a majority vote of a board consisting of a representative from the State Board of Forestry, a representative from the State Board of Equalization, and the assessor of the county in which the trees are located.

The Legislature may supersede the foregoing provisions with an alternative system or systems of taxing or exempting forest trees or timber, including a taxation system not based on property valuation. Any alternative system or systems shall provide for exemption of unharvested immature trees, shall encourage the continued use of timberlands for the production of trees for timber products, and shall provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. Nothing in this paragraph shall be construed to exclude timberland from the provisions of Section 8 of this article.

(k) \$7,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received State or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

No increase in this exemption above the amount of \$7,000 shall be effective for any fiscal year unless the Legislature increases the rate of State taxes in an amount sufficient to provide the subventions required by Section 25.

If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by . comparable to the average increase in benefits to homeowners, as calculated by the Legislature.

**(l) Vessels of more than 50 tons burden in this State and engaged in the transportation of freight or passengers.**

(m) Household furnishings and personal effects not held or used in connection with a trade, profession, or business

If you have any questions please feel free to contact me.



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