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January 6, 2014

VICE CHANCELLOR – REAL ESTATE

RE: Delegations of Authority held by the former Vice Chancellor – Facilities Services

This is to confirm that all Presidential delegations of authority formerly held by the Vice Chancellor – Facilities Services (listed below) are now delegated to the position of Vice Chancellor – Real Estate, effective January 11, 2014. Any re-delegations by the former Vice Chancellor – Facilities Services are to remain in force until such time as you rescind or reassign said delegations.

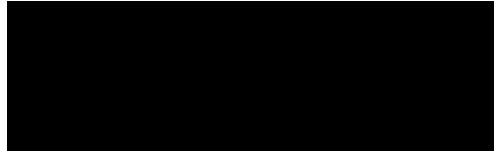
Delegation ID	Title / URL	Description/Comments	Re-delegated To
DA 606	Approve siting of individual buildings or projects http://policy.ucop.edu/files/da/da0606.html	Authority to approve the siting of individual buildings or projects, provided that their locations are generally in accordance with a long-range development plan previously approved in principle by the Board, and to approve the siting of individual buildings or projects on University properties, such as field stations or research stations, which may not be covered by approved long-range development plans.	Associate Vice Chancellor – Project Management (Currently Rob Gayle)

Delegation ID	Title / URL	Description/Comments	Re-delegated To
DA 693	Solicit and accept or execute extramural grants and contracts for construction of facilities http://policy.ucop.edu/files/da/da0693.html	These actions shall be in accordance with the Grants Procedures published in the Facilities Manual.	Associate Vice Chancellor – Project Management (Currently Rob Gayle)
DA 856	Enter into and execute agreements pertaining to purchase of utilities commodities and services http://policy.ucop.edu/files/da/da0856.html		No re-delegation on record
DA 1058	Execute agreements http://policy.ucop.edu/files/da/da1058.html	Delegation for filming program only	Assistant Vice Chancellor – Real Estate Services (Currently Robert Hatheway)
DA 2220	Agreements for Executive architects, executive landscape architects, and executive and consulting engineers http://policy.ucop.edu/files/da/da2220.pdf	Authority for projects with approved budgets with a total individual project cost not exceeding \$60,000,000, subject to design and design professional requirements set out in the University Facilities Manual.	Associate Vice Chancellor – Project Management (Currently Rob Gayle)
DA 2231	Authority to negotiate, approve and execute University-related real property rental agreements (leases) http://policy.ucop.edu/files/da/da2231.pdf	Risk Services must approve indemnification language	<ul style="list-style-type: none"> Assistant Vice Chancellor – Real Estate Services: Lease duration 10 years, annual consideration not to exceed \$500,000 (Currently Robert Hatheway) Manager – Real Estate Services: Lease duration 5 years, annual consideration not to exceed \$350,000 (Currently Helen Levay)
DA 2232	Authority to negotiate, approve and execute licenses for use of real property http://policy.ucop.edu/files/da/da2232.pdf	Risk Services must approve indemnification language	<ul style="list-style-type: none"> Assistant Vice Chancellor – Real Estate Services: Lease duration 10 years, annual consideration not to exceed \$500,000 (Currently Robert Hatheway) Manager – Real Estate Services: Lease duration 5 years, annual consideration not to exceed \$350,000 (Currently Helen Levay)

Delegation ID	Title / URL	Description/Comments	Re-delegated To
DA 2233	Authority to negotiate, approve and execute real property easements and rights of way http://policy.ucop.edu/files/da/da2233.pdf	Specific parameters set out in the delegation	<ul style="list-style-type: none"> Assistant Vice Chancellor – Real Estate Services (Currently Robert Hatheway) Manager – Real Estate Services (Currently Helen Levay)
DA 2564	Authority for bid solicitation and execution of construction contracts http://policy.ucop.edu/files/da/da2564.pdf	Restrictions set out in the delegation	<ul style="list-style-type: none"> Associate Vice Chancellor – Project Management (currently Rob Gayle) Director – Contracts Administration (currently Mike Cole) Contracts Manager: documents up to \$200,000 (Currently Theresa Cerney) Contracts Administrator: documents up to \$100,000 (Currently Martha Mendoza, David Hunsberger, Pam Sasagaw, Jennifer Aquino) Contracts Administrator: documents up to \$50,000 (Currently Donald King, Amanda Palmquist) Contracts Analyst: documents up to \$50,000 (Currently Catherine Dang)
DA 2574	Authority to approve amendments to the capital improvement program and make transfers of funds http://policy.ucop.edu/files/da/da2574.pdf	Minor capital improvement projects (total project cost not to exceed \$750,000) only	No re-delegation on record
DA 2575	Authority to approve project design http://policy.ucop.edu/files/da/da2575.pdf	Total project costs not to exceed \$10,000,000	No re-delegation on record
G-38	Tax Exemption and Refund Claim Filing for Property Leased by the University http://policy.ucop.edu/doc/3420352/BFB-G-38		No re-delegation on record <i>Confirmed that Real Estate Services Office does the filing</i>

Any re-delegation of the above authorities must be in writing, with a copy to the Campus Delegations of Authority Coordinator. Please contact Campus DA Coordinator Janice Hing in the Office of Ethics, Risk and Compliance Services at 643-9318 or jhing@berkeley.edu with any concerns or changes you may have regarding these delegations of authority.

All Best,



Nicholas Dirks

cc: Vice Chancellor John Wilton
Chief Campus Counsel Chris Patti
Associate Chancellor Linda Williams
Chief Audit Executive Wanda Lynn Riley
Campus DA Coordinator Janice Hing

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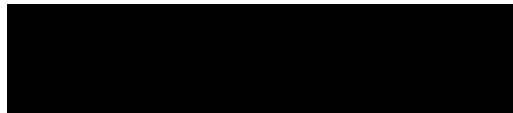
March 18, 2004

VICE CHANCELLOR - FACILITIES SERVICES
Ed Denton

Re: Delegation of Authority - *Tax Exemption and Refund Claim
Filing for Property Leased by the University (Business and
Finance Bulletin G-38)*

Effective immediately, in accordance with Business and Finance Bulletin G-38, Tax Exemption and Refund Claim Filing for Property Leased by the University, I am redelegating to you, as Vice Chancellor - Facilities Services, the authority to handle the campus and Laboratory tax exemption and refund claiming of leased property on my behalf.

Please contact Cindy Major in the Chancellor's Communications and Resource Center at 642-3115 or via email at cmajor@berkeley.edu with any concerns you may have regarding this delegation of authority.


Robert M. Berdahl
Chancellor

cc: Special Assistant Jeanne Gardner
Secretary of the Regents Leigh Trivette
Associate Chancellor John Cummins
Cindy Major



BFB-G-38: Tax Exemption and Refund Claims Filing for Property Leased by the University

Responsible Officer:	Executive Vice President-Chief Financial Officer
Responsible Office:	FA - Financial Accounting
Issuance Date:	1/17/2012
Effective Date:	1/17/2012
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

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. DEFINITIONS

Not applicable

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

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and Taxation Code as Section 202.2, mandated 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, although 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; the 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.

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Function	Responsibilities
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 for Orange County. Form BOE-263 is available at each county assessor's website.
 - 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

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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.

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

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.

With respect to filing for a 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.

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.

With respect to filing for a 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 Regents 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 from Orange County
- Exhibit B - Refund Claim Sample from Orange County

VII. FREQUENTLY ASKED QUESTIONS

Not applicable.

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.