
SENATE COMMITTEE ON REVENUE AND TAXATION

Senator Jerry McNerney, Chair

2025 - 2026 Regular

Bill No: AB 2167

Author: Macedo

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Consultant: Grinnell

Hearing Date: 6/24/26

Tax Levy: Yes

Fiscal: Yes

PROPERTY TAX: DOCUMENTARY TRANSFER TAX: EXEMPTIONS: NONPROFIT CORPORATIONS CHARTERED UNDER TRIBAL OR FEDERAL LAW

Clarifies that nonprofit tribal corporations and wholly owned tribal entities are eligible for the welfare exemption from property tax and exemption from Documentary Transfer Tax enacted by AB 1485 (Macedo, 2026).

Background

Property Taxation. Section One of Article XIII of the California Constitution provides that all property is taxable unless explicitly exempted by the Constitution or federal law. The Constitution limits the maximum amount of any ad valorem tax on real property at 1% of full cash value, plus any locally-authorized bonded indebtedness, and caps a property's annual inflationary increase in taxable value to 2%. Assessors reappraise property whenever it is purchased, newly constructed, or when ownership changes. The Constitution and statute define those terms.

Section Four of Article XIII allows the Legislature to exempt property used exclusively for charitable purposes, so long as it is owned by non-profit corporations or other entities organized and operated for charitable purposes, such as universities, hospitals, and libraries. Commonly known as the "welfare exemption," it has a similar policy rationale to tax-exempt status for charitable groups: revenues paid in tax to the government divert needed resources away from the organizations' good works.

Current law also exempts property that is used exclusively for the preservation of native plants and animals, biotic communities, geological or geographical formations of scientific or educational interest, or open-space lands used solely for recreation and for the enjoyment of scenic beauty. The land must be open to the public subject to reasonable restrictions, and the exemption cannot apply to property that is reserved for future development. In 2022, the Legislature extended the exemption until the 2027 lien date (SB 825, Committee on Governance & Finance).

Documentary Transfer Taxes. The Documentary Transfer Tax Act allows counties to levy a tax upon the recording of documents that transfer interests in real property. All 58 counties impose a documentary transfer tax (DTT), which is levied at a rate of 55 cents per \$500 (or 0.11%) of the value of the real property or interest being transferred. The Act allows a city within a county that has adopted a DTT to impose a DTT at one-half of the county rate. The amount of tax paid to a city is a credit against the amount of the tax owed to a county. More than 450 cities levy a DTT pursuant to the Act. Under the "municipal affairs" doctrine established by

Article XI, Section 5 of the California Constitution, some charter cities tax the transfer of ownership of real estate at rates that exceed the statutory limit on the DTT. County recorders administer documentary transfer taxes. State law prohibits a recorder from recording a document subject to the DTT unless the tax is paid at the time of recording.

Tribal Land Return Transactions. The United States Constitution vests Congress with the authority to engage in relations with Indian tribes, sovereign nations that existed long before the founding of the Republic. This sovereignty was first affirmed in 1832 by the United States Supreme Court in *Worcester v. Georgia*, 31 U.S. 515, which stated that “the Indian nations had always been considered as distinct, independent political communities retaining their original natural rights as undisputed possessors of the soil, from time immemorial.” As a result, state laws generally do not apply to Native Americans on their respective lands, except where expressly allowed by federal law.

California is home to 110 federally recognized tribes and more than 60 aboriginal tribes that are not federally recognized. However, the State’s history with tribes is a tumultuous and violent one, filled with dispossessions of tribal lands, violations of human rights, and unlawful termination of federal recognition as tribal sovereigns. Further, the Homestead Act, the Dawes Act, and the Rancheria Act, among other actions by federal, state, and local governments, resulted in vast land takings from California tribes.

In recent years, California has enacted policies that encourage the return of tribal land to California Tribes and support co-management of ancestral lands by California Tribal Nations. In 2020, Governor Newsom signed Executive Order N-82-20, which directed certain agencies to partner with various entities, including California tribes, to combat the biodiversity and climate crises. Subsequently, the Legislature enacted SB 101 (Committee on Budget & Fiscal Review, 2023), which directed the California Natural Resources Agency (CNRA) to develop a Tribal Nature-Based Solutions program, and appropriated \$41 million to state agencies to support the return of ancestral lands to tribal ownership and stewardship, as well as habitat restoration projects, coast and ocean protection, wildfire resiliency and cultural fire, among other purposes. As a result, the CNRA has announced nearly \$108 million available to fund 33 projects and support the return of approximately 39,000 acres of land to California Native American tribes. Among them, the Program helped the Hoopa Valley Tribe fund the recent reacquisition of more than 10,000 acres, the tribe’s largest acquisition since its reservation was established in 1864.

When a tribe conveys land to the United States Government to be held in trust, it is exempt from property tax as federally-owned property. However, this process can often take several years to obtain federal government approval. When a tribe purchases land in fee, the only other property tax exemption available specifically to tribes is the tribal low-income housing tax exemption that applies to rental housing owned and operated by a federally recognized Indian tribe, or its tribally designated housing entity. As a result, most property purchased by tribes becomes taxable in the same way as property owned by anyone else.

In March 2024, the Berkeley City Council unanimously approved an ordinance that authorized purchasing the West Berkeley Shellmound and Village Site with funds raised by Sogorea Te’ Land Trust. The land is among the most culturally significant sites for the Lisjan people, so the land return acquisition was imperative to the Tribe’s ability to protect its culture. However, the purchase price was more than \$25 million, which results in \$250,000 in annual property tax payments at the 1% rate, unless an exemption applies. The tribal land trust also paid documentary transfer taxes.

AB 1485. Earlier this year, the Legislature enacted AB 1485 (Macedo), which exempted tribal land return transactions, as defined, from the documentary tax, and enacts a property tax exemption parallel to the current exemption for open space lands for properties owned and operated by a federally recognized Indian tribe, or its wholly owned subsidiary. The bill exempted “tribal land return transactions” from the documentary tax, defined as a land return acquisition that transfers ownership of land to a federally recognized Indian tribe, or a wholly owned subsidiary of a federally recognized Indian tribe in fee simple, and that includes restrictive covenants that prohibit that tribe from engaging in commercial activities on the land, instead restricting its uses to cultural, educational, recreational, or conservation purposes.

Tribal corporations. The Indian Reorganization Act of 1934 has long provided a framework for tribes to create corporations that facilitate economic development while safeguarding their sovereignty and assets. Tribal nations often create separate corporations or subsidiaries for specific purposes, including owning land not held in trust by the federal government. Tribes state that forming corporations under their own law is an exercise of their inherent sovereign authority to generate governmental revenue, self-govern the use of that revenue according to their own laws, and self-determine the use of that revenue for their citizenry. Tribes add that incorporating corporations under Tribal law enables Tribes to create entities that meet their emerging revenue opportunities, establish guidelines for the operation of these entities that are culturally appropriate and protect Tribal assets, and dissolve them when they are no longer needed.

Last December, the Internal Revenue Service issued new regulations that included a new rule providing that entities wholly owned by Tribes and organized, incorporated, or authorized under the laws of the Tribes that own them generally are not recognized as separate entities for federal tax purposes.¹ The regulations also apply to entities wholly owned by one or more Indian Tribal governments, and to entities other than corporations, such as Limited Liability Companies.

AB 1485 allowed wholly-owned subsidiaries of tribes to qualify for the measure’s welfare exemption from property tax as well as its DTT exemption. However, tribes can differ in the types of entities they create, and the term “wholly owned subsidiary” may be interpreted differently from tribe to tribe. Additionally, it’s unclear whether a non-profit land trust created by several tribes would qualify as a “wholly owned subsidiary” of a tribe. The Mooretown Rancheria wants to amend AB 1485 to expand the types of tribal entities that can qualify for its exemptions.

Proposed Law

Assembly Bill 2167 adds the following entities into AB 1485:

- Nonprofit corporations chartered by a federally recognized tribe pursuant to tribal law,
- Nonprofit corporations chartered under Section 17 of the Indian Reorganization Act, and
- Wholly owned tribal entities.

The measure defines “wholly owned tribal entity,” an entity wholly owned by one or more Indian tribal governments, as that term is defined in Section 7701(a)(40) Title 26 of the United

¹ Entities Wholly Owned by Tribal Governments, 12/16/25, 26 CFR Parts 1 and 301:
<https://www.federalregister.gov/documents/2025/12/16/2025-22874/entities-wholly-owned-by-indian-tribal-governments>

States Code, that is organized or incorporated under the law of the tribe or tribes that own the entity and authorized by all of the other owning tribes. The bill also deletes references to “subsidiary,” and makes a conforming change to AB 1485’s legislative findings and declarations to comply with Section 41 of the Revenue & Taxation Code.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. “California has taken an important step toward supporting tribal land return transactions and the preservation of natural resources and open-space lands under current law. AB 2167 is a narrow follow-up measure to ensure that framework works as intended. Some tribes hold land through corporations chartered under tribal law. Those entities are legitimate arms of tribal self-governance, but current statutory language does not clearly state them in the relevant tax provisions. As a result, similarly situated tribal land return transactions may be treated differently based solely on how a tribe structures its ownership. AB 2167 provides a simple fix by expressly including corporations chartered under tribal law in the applicable welfare exemption and documentary transfer tax provisions. This bill promotes parity, respects tribal governance structures, and preserves the intent of existing law.”

2. Constitutional requirements still apply. To qualify for a welfare exemption from property tax, a property’s owner must be either religious, hospital, scientific, or charitable. While the Constitution references property owned by “corporations,” it also includes “other entities,” which can include tribes and tribal corporations so long as it meets the Constitutional requirement. While tribes are legally organized in a myriad of ways in California, a tribe or the corporations it creates (or creates with other tribes) must meet the same constitutional requirements as any other corporation or organization seeking a welfare exemption, at least as long as the property is not conveyed to the United States Government to be held in trust. To qualify for a property tax exemption, tribes and subsidiaries must follow the same steps as any other organization, specifically to obtain Organizational Clearance Certificates from BOE and have a claim approved by the assessor. Additionally, the exemption applies almost all of the same statutory requirements that currently apply to owners of open space property when seeking a welfare exemption.

3. Recent history. While pending on the Senate Floor, the author amended AB 1485 on August 29th to add “a corporation chartered pursuant to tribal law,” as a property owner potentially eligible for the bill’s DTT and property tax exemptions, among other changes. The author then amended the measure on September 5th to delete that addition, among other changes. The Senate approved the bill unanimously on September 11, 2025, but the Assembly did not concur in Senate Amendments until January 29, 2026, after the IRS had published its new rule regarding tribal entities.

4. Related legislation. At its June 10th, 2026, hearing the Committee approved AB 1668 (Pellerin), which extends the welfare exemption for open space lands owned by non-profit charitable organizations for five years. The measure is currently pending in the Senate Appropriations Committee.

Assembly Actions

Assembly Revenue & Taxation Committee:	7-0
Assembly Appropriations Committee:	15-0
Assembly Floor:	71-0

Support and Opposition (6/18/26)

Support: Mooretown Rancheria (Sponsor)
California Baptist Capitol Ministry
California Nations Indian Gaming Association
Habematolel Pomo of Upper Lake
Rincon Band of Luiseño Indians
Santa Ynez Band of Chumash Indians
Soboba Band of Luiseño Indians
Yurok Tribe

Opposition: None received.

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