

Direct Charge Levy Process Proposition 218 Certification Form

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Proposition 218 added Articles XIIC and XIID to the Constitution and significantly altered local government and special district finance in California. This proposition introduced considerable new requirements and constraints on the ability to impose property related taxes, assessments, fees, and charges for the financing of public facilities and services. Effectively, certain assessments existing prior to 7/1/1997 are considered to be “grandfathered” as long as no changes are made to the methodology used to calculate the levy.

Proposition 218 is not a stand-alone authorization to levy a special tax, assessment, fee, or charge. Instead, it is an “umbrella” set of requirements and procedures particularly for assessments, charges, and fees on top of any authorizing legislation requirements or specifically enabling legislation requirements (e.g. Proposition 218 adds a layer of additional requirements on top of the requirements of an Improvement Bond Act of 1915 assessment or a Landscaping & Lighting Act of 1972 assessment).

Notably, prior to Proposition 218, taxpayers had the burden of proof to show that an assessment, fee, or charge was not legal. Following Proposition 218, the burden of proof is on the district to prove “...by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.”

Since its passage, Proposition 218 has been significantly litigated, with outcomes generally narrowly/strictly interpreting Proposition 218’s requirements for assessments, charges, and fees.

Districts utilizing the County tax rolls for collection of various non-ad valorem direct charges, particularly assessments, fees, or charges, need to ensure ongoing compliance with the requirements of any applicable sections of the State Constitution Articles XIIC & XIID and related case law. Certain direct charges, such as PACE (Property Assessed Clean Energy) assessments {SHC §5898.31}, are explicitly excluded.

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1. Review the Background and Instructions sections on this page.
2. Retrieve the form.
3. Complete the appropriate check boxes and other fields on the form.
4. The same form may used for more than one direct charge as long as each direct charge has the same conditions(s) and the remainder of the direct charge annual package is submitted simultaneously for all listed on the form.
5. Either: Digitally sign and print to PDF (no printer or paper is needed, instead a small PDF file is created with user defined filename).
...or...
Digitally sign and save the file (can change filename if desired, but don’t change the file type).
...or...
Print (paper) and sign the paper copy.
6. Retain a copy for the district’s records.
7. Submit the completed form as part of the entire direct charge annual package to the Auditor-Controller, Property Tax Division by the deadline. Submission may be made via email (preferred), fax, mail, or in-person.