

Amend Revenue and Taxation Code Section 214.6 to clarify the filing procedures for obtaining a property tax exemption on property owned by a church or a nonprofit organization that is leased to a public school.

Source: Property and Special Taxes Department

Existing Law

Existing law provides property tax exemptions for public schools and colleges directly owned by the school (public schools exemption) and privately owned property when it is leased to public schools and colleges, but only if the property is exclusively used for school purposes (lessor's exemption). The law also provides property tax exemptions for property owned and used by qualifying nonprofit organizations (the welfare exemption) and for property owned by churches (the church and religious exemptions).

Revenue and Taxation Code Section 214.6 expressly provides that property owned by nonprofit organizations and churches and leased to public schools, including those of collegiate grade, are exempt from property tax under the welfare exemption provided the rents charged do not exceed the ordinary and usual expenses in maintaining and operating the property.

An emerging trend to maximize the use of facilities is for nonprofit organizations and churches to lease their properties to public schools and colleges in a shared or joint use arrangement. Sharing and joint use of facilities can reduce costs and maximize the usage of existing or new physical facilities, and provide better services to the community. Existing law allows an exemption in the case where the facilities are shared by both parties.

However, because of the numerous types of exemptions available, on occasion, both the public school and the nonprofit, or both the church and public school, file different types of exemption claims on the same property. This leads to confusion due to the various exemptions possible (i.e., the welfare exemption, the religious exemption, and the lessor's exemption) and the differing requirements for each exemption.

This Proposal

This proposal would update the filing procedures and requirements to claim the welfare exemption in these shared use scenarios which has lead to confusion for both property tax administrators and claimants.

Public Schools and the UC System - Technical. Adds language to include "public school district" and "the University of California" to be consistent with Section 202.2. Case law (*Regents of the University of California v. State Board of Equalization*, 73 Cal Appl.3d 660; 140 Cal.Rptr.857) changed Section 202.2 to include the UC system as a qualifying college for the exemption; however, corresponding change to Section 214.6 at that time was overlooked.

Nonprofits Leasing to Schools - Filing Requirements. Specifies the annual filing procedure when a welfare exemption claimant leases property to public schools, which would require the attachment of a copy of the lease agreement with the annual welfare

exemption claim otherwise required to be filed. Existing law is silent as to the administrative filing requirements under this situation.

Churches Leasing to Schools – Filing Requirements. Clarifies that the exemption provided to the property in this situation is the welfare exemption. Specifies that the filing procedure for a church receiving the religious exemption (which requires a one time filing with simplified postcard return filings thereafter) would be to annually file a specialized church lessor’s exemption claim.

Existing law specifies that churches are to file the lessor’s exemption claim. That particular claim does not work well in joint use situations because it refers to “exclusive” use of the property which has added to the confusion and uncertainty for claimants and tax practitioners. Consequently, the Board would prescribe a customized form for churches to file instead.

Section 214.6 of the Revenue and Taxation Code is amended to read:

214.6. (a) Property which is owned by an organization meeting the requirements of subdivision (b) of Section 4 of Article XIII of the California Constitution and complying with the requirements of paragraphs (1) to (7), inclusive, of subdivision (a) of Section 214 and which is leased to an exempt governmental entity for the purpose of conducting an activity which if conducted by the owner would qualify the property for an exemption, or leased to a public school, community college, state college, or state university, including the University of California, for educational purposes, shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 of Article XIII of the California Constitution if:

(1) The total income received by the exempt organization in the form of rents, fees or charges from such lease does not exceed the ordinary and usual expenses in maintaining and operating the leased property; and

(2) With respect to entities which are political subdivisions of the state, the property is located within the boundaries of the exempt governmental entity leasing the same.

To claim the exemption provided by this section for property leased by a qualifying organization to a public school, community college, state college, or state university, including the University of California, when both entities use the property in a joint manner, the organization need only attach a copy of the lease agreement with the annual filing of the welfare exemption claim.

(b) To claim the welfare exemption provided by this section for property leased by a church to a public school district, community college, state college, or state university, including the University of California, when both entities use the property in a joint manner, and where the church has claimed the religious exemption, the church need only annually file a church lessor's exemption claim and affirm each of the following:

(1) The total income received by the ~~organization~~ church in the form of rents, fees or charges from the lease does not exceed the ordinary and usual expenses in maintaining and operating the leased property.

(2) With respect to entities which are political subdivisions of the state, the property is located within the boundaries of the exempt governmental entity leasing the same.