PUBLIC SCHOOLS EXEMPTION

690.0010 **Off-Campus Facilities.** Off-campus facilities owned or leased by an apprenticeship program sponsor and used exclusively for public school purposes are within the exemption. Such facilities are not eligible for the exemption, however, if they are not "exclusively used" for such purposes. C 1/10/78.

(916) 445-3237

January 10, 1978

[illegible], CPM

B[illegible]

O[illegible]

Dear [illegible]

You recently requested our opinion on the applicability of AB 3693 of the 1976 Legislative Session to exemptions for prior years. Your firm is representing Steamfitters' Local #342 whose school property qualified for the public school exemption in 1977-78, but which has not been granted the exemption for prior years.

Our position on AB 3693 since it was introduced by Assemblyman Siegler has been that as far as real property is concerned, it could do no more than restate existing law. Thus, any real property that is "used exclusively" for public school purposes should have been granted the exemption for all years so used. However, it has come to our attention that not all such schools were "exclusively used" and this resulted in approval in some counties and denial in others. Even after passage of the bill, if real property was not exclusively used, the bill could not exempt it because the Legislature has no authority to extend an exemption on real property without a constitutional amendment.

The Legislature does have authority to exempt personal property without a constitutional amendment. Thus, in this case even though the property may not be "used exclusively" for the proper purpose, the bill would act to exempt such personal property. In this circumstance, it would be proper to limit the exemption to the time period after the effective date of the bill.

Under these conditions it becomes important for the assessor to determine if the property is exclusively used for the exempt purpose. If so, the exemption should have been

granted for all years so exclusively used. If not, the exemption should be denied. Only in the cases of real property where the exclusiveness of use changed after 1976 and personal property would it be proper to deny the exemption for prior years while granting it for the present year.

Very truly yours,

Robert D. Milam
Tax Counsel

RDM:fp

cc: Mr. E. F. Wanaka
Contra Costa County Assessor
ATTN: Ms. Kris Rogers
Exemption Supervisor

bc: Mr. Jack F. Eisenlauer (W. Grommet)
DAS File
Legal Section