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September 2, 1983

TO COUNTY ASSESSORS

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Executive Secretary

No. 83/97

SENATE BILL 1275; ASSEMBLY BILL 1134 - RELIGIOUS,  
CHURCH, AND WELFARE EXEMPTIONS

On June 22, 1983, the Governor signed into law Senate Bill 1275. It is Chapter 120, Statutes of 1983, and is effective immediately as an urgency statute. In addition, on July 18, 1983 the Governor signed into law Assembly Bill 1134. This bill is Chapter 312, Statutes of 1983, and becomes effective January 1, 1984 for the 1984 lien date. These bills make the following changes to the Revenue and Taxation Code provisions governing the above named exemptions:

Senate Bill 1275, Chapter 120 (effective immediately as an urgency statute)

1. Section 207 is amended by changing the effective date of this section from the 1982-83 fiscal year to the 1977-78 fiscal year. In doing so, the change retroactively establishes 1977-78 as the first year for filing for the Religious Exemption.
2. Section 270 is amended by adding the Religious Exemption to those enumerated in subdivision (a), thus establishing late filing provisions for this exemption.
3. Section 270 is further amended by adding a subdivision (d) which states:

"(d) Notwithstanding the provisions of subdivision (a), with respect to property as to which the church or religious exemption was available, any tax or penalty or interest thereon shall be cancelled or refunded if it is imposed upon property entitled to relief under that subdivision for which an appropriate claim for exemption has been filed on or before March 1, 1984, and a twenty-five dollar (\$25) filing fee for each year has been paid. This subdivision shall be effective for the fiscal years 1977-78 to 1982-83, inclusive."

This latter change requires clarification and the establishment of processing procedures. It should be noted that the first two changes lay the groundwork necessary to implement the provisions of the third change.

As you know, some churches believe their property should be exempt from property taxes merely because of ownership. Thus, they have refused to file exemption claim forms, and they may or may not have paid the resulting taxes. As a result, a few church properties have been "sold to the state" for delinquent taxes and are now in jeopardy of being deeded to the state. Under the provisions of the added Section 270 (d), any tax, penalty, or interest on such properties, for any year(s) from 1977-78 to 1982-83, inclusive, shall be cancelled or refunded provided (1) an appropriate claim for exemption is filed with the assessor on or before March 1, 1984, and (2) a twenty-five dollar (\$25) filing fee for each year is paid.

In processing claims filed pursuant to Section 270(d) there are several factors to be considered:

- A. This subdivision applies only to property, or portions thereof, which is eligible for the Church Exemption or the Religious Exemption. It is not applicable to property used for activities which require filing for the Welfare Exemption (i.e., convents, bingo, camps, etc.).
- B. Property must be owned by the religious organization to be eligible for the Religious Exemption. Only the Church Exemption is available for leased property, and then only if used exclusively for church (not school) activities.
- C. The law provides for one-time filing for the Religious Exemption. Thus, in most cases only one Religious Exemption claim form need be filed. Where a Religious Exemption claim was filed in 1982 for the 1982-83 fiscal year but no claims were filed in 1977, 1978, 1979, 1980, or 1981, an additional Religious Exemption claim would have to be filed for 1977-78 to cover the 1977-78 through 1981-82 fiscal years. Even though the statute provides for one-time filing, the 1982 claim does not relate to conditions that existed in 1977. Additional forms could also be required if in an intermediate year the property is used for purposes other than church or church and school activities. For example, a nonchurch/religious use in 1980-81 may require filing for the Welfare Exemption. One Religious Exemption claim form would be required for the years prior to 1980-81. An additional Religious Exemption claim form would be required for 1981-82 to reestablish the Religious Exemption (one-time filing for 1981-82 and thereafter). Religious Exemption claim forms for prior years should clearly state the tax years for which the claim is filed, for example, 1977-78, 1978-79, 1979-80, etc. Under the Church Exemption a separate claim form must be filed for each year.
- D. A separate claim form is required for each location, not for each parcel. Likewise, filing fees apply per location per year and not per parcel.

- E. The \$25 filing fee is required for each year claimed. For example, one Religious Exemption claim form representing four years' filings would require \$100 in filing fees. Four Church Exemption claims, one for each year, would require \$100 in filing fees.
- F. In the case of a partial exemption, the filing fee is in addition to any tax, penalty, or interest applicable to those portions of the property not eligible for exemption, such as a parsonage, excess property, vacant or unused property.
- G. The uses of property on the lien date for each year claimed may vary and therefore must be carefully reviewed to insure proper allocation of the exempt and taxable values for each year. For example, as of:
- (1) March 1, 1979, church-owned property is 100 percent vacant or unused land. It is 100 percent taxable (no form need be filed).
  - (2) March 1, 1980, a church is built on 50 percent of the property--100 percent of the building and 50 percent of the land is exempt under either the Church Exemption or the Religious Exemption. The 50 percent of land still vacant or unused is taxable.
  - (3) March 1, 1981 - a parsonage is built on the 50 percent of land which was vacant or unused the prior years. Both the parsonage and 50 percent of land are taxable as a parsonage is not an exempt use.
  - (4) March 1, 1982, the parsonage has been converted to a nursery school. The entire property is now exempt under the Religious Exemption but only the church building and 50 percent of the land would qualify for the Church Exemption.

The last sentence of Section 270(d) states "This subdivision shall be effective for the fiscal years 1977-78 to 1982-83, inclusive." This is an exception to the usual four-year statute of limitations on refunds contained in Section 5097 of the Revenue and Taxation Code. There is no statute of limitations for cancellation of taxes.

Assembly Bill 1134, Chapter 312 (effective January 1, 1984 for the 1984-85 fiscal year and thereafter)

4. Section 255, subdivision (a) is amended by adding the Religious Exemption to those exemptions enumerated and deleting the obsolete reference to the transshipment exemption.
5. Section 255, subdivision (e), which referred to the transshipment exemption is deleted in its entirety and a new subdivision (e) is added which states:

"(e) Notwithstanding the provisions of subdivision (a), any claimant who has been found ineligible for the church exemption or the religious exemption after timely filing an affidavit therefor pursuant to subdivision (d), may file an affidavit for a welfare exemption. Affidavits for

September 2, 1983

the welfare exemption filed pursuant to this subdivision shall be filed within 15 days from the date of notification by the assessor of the claimants ineligibility for the church exemption or the religious exemption."

This change provides for an additional filing deadline for the Welfare Exemption in the event a claimant who has been found ineligible for the Church Exemption or Religious Exemption, after timely filing an affidavit therefor, files an affidavit for the Welfare Exemption within 15 days from the date of notification by the assessor of the claimant's ineligibility therefor. A claimant thus qualifying for the Welfare Exemption may receive the full exemption. Written notification of denial of the Church Exemption or Religious Exemption is recommended to avoid disputes.

6. Section 257, subdivision (c), is amended by adding "by June 30" as the deadline for notifying the assessor when property is no longer eligible for the Religious Exemption.
7. Section 257.1 is amended by adding "prior to the lien date" as the deadline for assessors to mail form Religious Exemption Change In Eligibility Or Termination Notice, AH 267S NOTICE, to the prior year's recipients of the religious exemption.
8. Section 271, subdivision (a), is amended by adding reference to the Religious Exemption and deleting the obsolete reference to the orphanage exemption in subsections (1) (2 places), (2), and (3). Exemption for property acquired after the lien date or by a newly formed organization will be available under the Religious Exemption for the 1984-85 fiscal year and thereafter.

Both Senate Bill 1275 and Assembly Bill 1134 specify there shall be no reimbursement to local government.

The 1984 exemption forms will be revised, where appropriate, to reflect these changes.

Enclosed are copies of Senate Bill 1275 and Assembly Bill 1134. If you have any questions or comments, please contact Bill Minor, Vance Price, or Bill Grommet of this division; their telephone number is (916) 445-4982.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:WPC

Enclosures

AL-05-1447A/W-6