



STATE OF CALIFORNIA

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NO. 91/15

February 27, 1991

TO COUNTY ASSESSORS:

WELFARE EXEMPTION: OCCASIONAL USE BY OTHER ORGANIZATIONS

On June 22, 1990, the Governor signed into law Assembly Bill 3022. It is Chapter 161 of the 1990 Statutes and became effective on January 1, 1991, for the 1991-92 tax year.

This bill adds subparagraph (D) to Revenue and Taxation Code Section 214(a)(3) to provide that:

"(D) For the purposes of determining whether the property is used for actual operation of the exempt activity, consideration shall not be given to the use of the property for meetings conducted by any other organization if the meetings are incidental to the other organization's primary activities, are not fundraising meetings or activities as defined in subparagraph (B), are held no more than once per week, and the other organization and its use of the property meet all other requirements of paragraphs (1) to (5), inclusive, of subdivision (a). The owner or the other organization also shall file with the assessor duplicate copies of valid, unrevoked letters or rulings from the Internal Revenue Service stating that the other organization, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code, together with duplicate copies of that organization's most recently filed federal income tax return, if the organization is required by federal law to file a return.

Nothing in subparagraph (A), (B), (C), or (D) shall be construed to either enlarge or restrict the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section."

Previously, a church or other qualifying organization permitting another organization to use its property on a recurring basis could retain its exemption only if the user (operator) also filed and qualified for the welfare exemption. This new law permits the owner organization, in some instances, to allow another organization to meet on its property without jeopardizing its exemption and without the user organization filing and qualifying for the welfare exemption.

In order to prevent denial of the property's welfare exemption, the following criteria must be met by the user/operator of the property:

1. The meetings conducted on the exempt property:
  - a. must be incidental to the organization's primary activities,
  - b. cannot be fundraising meetings or activities as defined in subparagraph (B), and
  - c. can be held no more than once per week.
2. The organization and its use of the property must meet all other requirements of paragraphs (1) to (5), inclusive, of subdivision (a) of Section 214.

NOTE: The user organization needs to meet only the requirements of Section 214(a)(1) through (5) rather than all of Section 214(a). The omission of the first paragraph of Section 214 allows organizations which are not exclusively religious, hospital, scientific, or charitable in nature to use property without jeopardizing the owner's exemption. Similarly, the organization would not have to meet the irrevocable dedication and dissolution requirements of Section 214(a)(6).

3. The organization must qualify as an exempt organization under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code and provide duplicate copies of valid, unrevoked letters or rulings from the Internal Revenue Service stating that it, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under the above stated federal code provisions.
4. The organization must provide duplicate copies of its most recently filed federal income tax return, if the organization is required by law to file a return.

Small satellite groups such as Alcoholics Anonymous and the American Association of Retired Persons (AARP), who are a local chapter or affiliate of a national organization, may not have 501(C)(3) or 501(c)(4) federal tax letters and/or may not be required to file federal income tax returns. Such groups should provide copies of their national organization's tax letter along with copies of a letter or certificate identifying them as a chapter or affiliate. In most cases the national organization's federal income tax return need not be submitted.

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It should be noted that not all 501(c)(3) or 501(c)(4) organizations can meet all the requirements of Section 214(a)(1) through (5). Examples of organizations which may qualify include civic leagues operated exclusively for the promotion of social welfare, social welfare groups having a public advocacy role, local employee associations, alumni associations, SPCA, hospital auxiliaries, and historical societies.

Conversely, trade associations or chambers of commerce are examples of organizations which would not meet the requirements of Section 214(a)(4) which prohibits exemption of property used by persons or organizations for the more advantageous pursuit of their business or profession. Likewise, Section 214(a)(5) prohibits exemption of property used for fraternal or lodge purposes, or for social club purposes except where that use is clearly incidental to a primary religious, hospital, scientific, or charitable purpose. Examples of organizations not meeting this requirement include Elks, Moose, Rotary, Optimists, Kiwanis, 20/30 Clubs and political organizations.

While this change in the law may slightly enlarge the scope of the welfare exemption, it may also result in a net reduction in the number of claims filed as organizations meeting the new criteria will no longer need to file as operators of the host organization's properties.

If you have any questions regarding this subject, please contact our Exemption Unit at (916) 445-4982.

Sincerely,



Verne Walton, Chief  
Assessment Standards Division

VW:wpc  
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