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No. 92/46

July 17, 1992

TO COUNTY ASSESSORS:

WELFARE EXEMPTION: EFFECT OF REVENUE AND TAXATION CODE SECTION 2229
ON LOW INCOME HOUSING AND EMERGENCY SHELTERS FOR THE HOMELESS

We recently received an inquiry concerning Revenue and Taxation Code Section 2229 and its effect on the exemption for low income rental housing provided by Revenue and Taxation Code Section 214(g) and the exemption for emergency or temporary shelters for the homeless provided by Revenue and Taxation Code Section 214(h).

Section 2229 states:

"No classification or exemption of property for purposes of ad valorem property taxation enacted by the Legislature after January 1, 1973, shall extend for more than five years or shall exempt more than 75 percent of the value thereof from such taxation.

"Any such classification or exemption enacted by the Legislature after January 1, 1973, shall be reimbursed by the state for the 1973-74 fiscal year and for each fiscal year thereafter.

"For purposes of this section the actual loss of revenue does not include potential revenue from property of a type which was not being assessed and taxed on January 1, 1973.

"Upon appropriation of reimbursement funds by the Legislature, each county auditor shall file a claim with the Controller on or before September 30 for reimbursement of the tax loss attributable to the exemption. The Controller shall pay on or before December 30 of each year one-half of the amount claimed and shall pay the other one-half on or before April 30. The Controller may audit, or may request the State Board of Equalization to audit, any of these claims or payments. This section does not apply to classes of property affected by Sections 988, 1152, 5303, and subdivision (c) of Section 227.

"The Legislative Analyst shall review any classification or exemption of property to which this section is applicable and shall report to the Legislature on the

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general economic effects thereof. This report shall be submitted at least one year prior to the date on which the classification or exemption is scheduled to terminate.

"Any claim alleging that the reimbursement requirements of this section have not been complied with shall be presented directly to the Legislature and Sections 905.2 and 945.4 of the Government Code shall not apply thereto."

Chapter 1469 of the Statutes of 1987 added subdivision (g) to Revenue and Taxation Code Section 214, expanding the welfare exemption to include property used for low income rental housing and related facilities (see Assessors Letter 88/51). Chapter 77 of the Statutes of 1988 added subdivision (h) to Section 214, expanding the welfare exemption to include property used for emergency or temporary shelters and related facilities for the homeless which are eligible for funding pursuant to Section 50800 et. seq. of the Health and Safety Code. Section 2 of Chapter 1469 and Section 6 of Chapter 77 both state:

"This act makes a classification or exemption of property for purposes of ad valorem taxation within the meaning of Section 2229 of the Revenue and Taxation Code."

Recently introduced legislation, Senate Bill 1652, will, if passed, delete the June 30, 1993 sunset dates and the 75 percent exemption limitations of Sections 214(g) and 214(h) by amending Section 2 of Chapter 1469 and Section 6 of Chapter 77 to state that the provisions of Section 2229 do not apply to exemptions created by those chapters. Senate Bill 1652 also provides the state shall not reimburse counties for revenues lost as a result of Chapters 1469 and 77. No appropriation of reimbursement funds has been made by the Legislature since Sections 214(g) and 214(h) became operative in 1988-89.

Due to the relatively high assessed values of properties exempted by Sections 214(g) and 214(h), we are closely monitoring Senate Bill 1652 and will keep you informed of its progress. If passed as presently written, it would become effective January 1, 1993. If amended so as to become retroactive and passed, counties that have implemented the 75 percent exemption limitations of Section 2229 will be required to refund the taxes paid on the remaining 25 percent of exempt value. Conversely, if Senate Bill 1652 does not pass in its present form, property currently exempt under Sections 214(g) and 214(h) will become taxable for 1993-94 and any counties who have been granting 100 percent exemption on such properties should enroll escape assessments for the 25 percent of exempt value not provided by Section 2229.

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

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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AL-33-0009N