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February 22, 1972

TO COUNTY ASSESSORS:

REMEDIAL PROVISIONS FOR
LATE EXEMPTION CLAIMS - SB 335

A recent letter dated December 22, 1971, concerning legislation enacting provisions for late exemption claims (Stats. 1971, ch. 303) has generated certain questions of general interest.

The first question concerns the statement that the \$250 maximum limitation should be applied on a "per-claim" basis. Since a welfare exemption claimant may include several separate parcels (locations) in the same claim by attaching separate section "B's" to the claim, the application of the \$250 limitation on a per-claim basis presents no problems. However, due to the design of the claim form, a separate church exemption claim must be submitted for each parcel (location) for which exemption is sought. A literal application of the limitation on a per-claim basis would lead to inequitable results. A welfare exemption claimant would be subjected to a maximum payment of \$250 regardless of how many parcels (locations) were included in his claim. On the other hand, a church exemption claimant would be faced with a \$250 payment for each parcel (location). The bill's urgency clause indicates that the legislative intent was to establish a maximum limit that could be charged an otherwise qualified organization that neglected to file a timely claim for the 1970-71 tax year and years thereafter. This intent can be accomplished only by giving the limitation the maximum application consistent with a reasonable interpretation of the wording of the statute. In order to accomplish this aim an equitable application of the remedial provisions requires that the \$250 limitation be applied where a single church organization claims the exemption for more than one parcel or for more than one location within a county. The same procedure would also be applicable for the orphanage and college exemption where a similar situation exists. With this in mind we are considering the possibility of redesigning the exemption claim forms to allow one claim to include more than one parcel or more than one location. The cemetery and exhibition claim forms do not require a similar change.

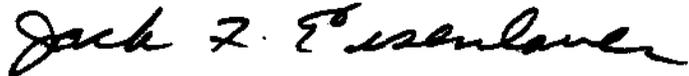
The second area of concern was the extent to which the provisions should be given retroactive effect. Section 10 of the bill provides that it shall be operative for property taxes for the 1970-71 fiscal year and

February 22, 1972

fiscal years thereafter. Our legal staff advises that with respect to the \$250 limitation the bill's retroactive effect is for the 1970-71 and 1971-72 tax years. Of course, the \$250 limitation also applies to tax years thereafter. Since a statute speaks from the date it takes effect and acts done pursuant to it before that date are void, a question arises concerning claims filed before the effective date of the statute. More specifically, what should be done with late claims for the 1970-71 or 1971-72 tax years which were received and processed before July 12, 1971? The legal staff advises that, although the question is not free from doubt, in order to implement the apparent legislative intent and insure equal treatment for all late claimants for the 1970-71 and 1971-72 tax years, those late claimants who have paid, or were charged with, more than the \$250 maximum should be advised of the new statutory procedure and of their right to refile in order to take advantage of the existing statutory scheme.

The legal staff also advises that section 9 of the bill provides that the bill shall not be construed to deprive any person or public agency of any substantial right which would have existed had the bill not been enacted. Therefore, any late claims for tax years before 1970-71 which are not barred by the statute of limitations should be processed in accordance with the statutes which were effective before SB 335 was enacted. Prior to the enactment of SB 335 sections 277 and 278 of the Revenue and Taxation Code provided for either 85 or 90 percent forgiveness without a \$250 limitation.

Sincerely,



Jack F. Eisenlauer, Chief
Assessment Standards Division

JFE:gm