



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916) 323-7715

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September 11, 1989

Hon. William C. Greenwood  
Fresno County Assessor  
2281 Tulare Street, Room 201  
Fresno, CA 93715-1146

Dear Mr. Greenwood:

This is in response to your June 26, 1989, letter to Mr. James J. Delaney wherein you requested our opinion concerning "exclusive use for religious worship" (church exemption) in the case of personal property and, particularly, leased personal property/equipment. In this regard, you state that you have encountered situations where churches are leasing equipment ranging from telephone systems and burglar alarms to institutional style kitchen appliances. As county policy is to bill the entity responsible for the payment of taxes, which in most cases is the lessee, tax bills are being generated to churches for leased personal property/equipment.

As you know, the church exemption is found in article XIII of the California Constitution:

"Section 3. The following are exempt from property taxation:

\* \* \*

"(f) Buildings, land on which they are situated, and equipment used exclusively for religious worship.

"Section 4. The Legislature may exempt from property taxation in whole or in part:

\* \* \*

"(d) Real property not used for commercial purposes that is reasonably and necessarily required for parking vehicles of persons worshipping on land exempt by section 3(f).

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"Section 5. Exemptions granted or authorized by Sections . . . 3(f) . . . apply to buildings under construction, land required for their convenient use, and equipment in them if the intended use would qualify the property for exemption."

In Fellowship of Humanity v. Alameda County, 153 Cal.App.2d 673, the court enumerated the elements of religion and defined worship:

"Religion simply includes: (1) a belief, not necessarily referring to supernatural powers; (2) a cult involving a gregarious association openly expressing the belief; (3) a system of moral practice directly resulting from adherence to the belief; and (4) an organization within the cult designed to observe the tenets of the belief.

\* \* \*

"Assuming this definition of 'religion' is correct, then it necessarily follows that any lawful means of formally observing the tenets of the cult is 'worship' within the meaning of the tax exemption provision."

As construed by the Board in its Assessors' Handbook AH 262, Church Exemption, the determinative element of "worship", as defined, is that of "formal observance". Thus, "worship", for purposes of the church exemption, is limited to traditional ceremonial functions, such as regularly scheduled services with attendance and participation of the complete congregation and ancillary services, sacramental in nature (AH 262-6).

A narrow construction of "worship" is further compelled by the existence of the welfare exemption for property used for religious purposes in the same article XIII of the Constitution:

"Section 4. The Legislature may exempt from property taxation in whole or in part:

\* \* \*

"(b) Property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities (1) that are organized and

operating for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual."

In Serra Retreat v. Los Angeles County, 35 Cal.2d 755, the court pointed out the difference between the church exemption/"worship" and the welfare exemption/"religious purposes":

"Thus our constitutional provision exempting churches from taxation limits the benefits to 'buildings . . . used solely and exclusively for religious worship,' while the later enacted welfare exemption law is described as 'in addition to such [church] exemption' (Cal. Const., art. XIII, § 1c) and so, in evidence of a broader concept, refers to property 'used exclusively for religious purposes.' (Ibid; Rev. & Tax. Code, § 214.)"

That everything a church does or may engage in is not "worship" has been recognized by other courts too, as well as by the Electorate, the Legislature, and the Board. See House of Rest v. Los Angeles County, 151 Cal.App.2d 523; Saint Germain Foundation v. Siskiyou County, 212 Cal.App.2d 911; and Peninsula Covenant Church v. San Mateo County, 94 Cal.App.3d 382, all welfare exemption/religious purposes cases.

While the church exemption and welfare exemption are to be strictly construed, such does not mean that the words of the exemptions are to be given the narrowest possible meaning. A strict construction means a fair and reasonable construction (Cedars of Lebanon Hospital v. Los Angeles County, 35 Cal.2d 729; Serra Retreat v. Los Angeles County, supra). Consideration must be given to the ordinary meaning of the language and the object(s) sought to be accomplished (Fellowship of Humanity v. Alameda County, supra). And the language in the constitution, including the language of the exemptions therein, is to be taken in its ordinary and common meaning, unless it appears that it is used in a technical sense, since it is presumed to have been so understood by the proposers and the voters (Kaiser v. Hopkins, 6 Cal.2d 537; Regents of University v. State Board of Equalization, 73 Cal.App.3d. 660).

In light of the above, and in light of Cedars of Lebanon Hospital v. Los Angeles County, supra, and other decisions which have interpreted "used exclusively" to include any

property which is used exclusively for any facility which is incidental to and reasonably necessary for the accomplishment of exempt purposes, the Board has recognized in Assessors' Handbook AH 262 that where the primary use of buildings, land and equipment is for religious worship, the church exemption will still be available if incidental and/or reasonably necessary uses are made of the buildings, land and equipment by a church on a non-interfering basis. Similarly, personal property/equipment used for a building used exclusively for religious worship should be considered eligible for the church exemption. Per pages 14 and 15 of the Handbook:

"3. Leased Property.

"A lessor of . . . personal property leased to a church and used exclusively for religious worship may obtain a church exemption for that property. Either the church itself may report the leased property on its claim for the church exemption, or the owner (lessor) of such property may claim an exemption thereon by filing with the assessor the Lessors' Exemption Claim (form AH 263), which must include an affidavit prepared by an authorized person representing the church. . . .

"Only the lessee (church) can attest that the leased property is in fact being exclusively used in an exempt manner. The governing body of the church must declare under penalty of perjury that the property is exclusively used for church purposes.

"Any reduction in property taxes on leased property used exclusively for religious worship and granted the church exemption shall inure to the benefit of the organization (church) entitled to the exemption."

Accordingly, in our view, leased personal property/equipment used for a building used exclusively for religious worship/church purposes is eligible for the church exemption. Thus, telephone systems, burglar alarms, and kitchen appliances necessary for religious worship/church purposes should be exempt, whether leased or owned. In so concluding, we note that the church exemption is solely a use exemption, and that the object thereof is to assure that churches be relieved of

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property taxes on property they use for church purposes. We note also that to conclude otherwise would mean that in those instances in which churches own telephone systems, burglar alarms, and/or kitchen appliances, churches would have to claim the church exemption for buildings, land, and equipment used exclusively for religious worship and the religious exemption or welfare exemption for such equipment when it is all being used in the same building or buildings for church purposes; or churches would have to claim the religious exemption or welfare exemption rather than the church exemption for all their property. Given the statutory exemption scheme as it has developed over the years, we do not believe that this is currently being done or that support exists for a conclusion which would compel this result.

Our intention is to provide timely, courteous, and helpful responses to inquiries such as yours. Suggestions that help us accomplish this goal are appreciated.

Very truly yours,



James K. McManigal, Jr.  
Tax Counsel

JKM:wak  
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cc: Mr. James J. Delaney  
Mr. John W. Hagerty  
Mr. Verne Walton  
Mr. James Barga