

WELFARE EXEMPTION

880.0200 Owner and Operator. Where property owned by a qualifying organization is also used by other organizations, all of such other organizations must be qualifying organizations, and all of such other organizations which use the property on a regular basis must file claims as operators of the property in order for the property to retain its exempt status C 2/1/78.

(916) 445-3076
February 1, 1978

Dear

This is in reply to your request for further information regarding our determination that the property located at 21108 Gavilan Road, Perris, owned by the Foundation for Human Development does not qualify for the welfare property tax exemption. As you may know, Section 254.5 of the Revenue and Taxation Code provides that the welfare exemption be administered by the local county assessor and the Board of Equalization. Because of this division of responsibility, we rely to a great extent on the report submitted to us by the county assessor.

The assessor viewed the property on November 29, 1977 and reported to us that all of the property was unused at the present time. We, thus, denied the property based upon the fact that vacant and unused property does not qualify for the exemption. Until we receive some further information from the assessor that the property is being used we cannot change our determination in this regard.

As to the validity of the O.N.F. designation, I need more information to make a determination in this regard. We view any user as an operator if that entity regularly uses the property. Since Section 214 of the Revenue and Taxation Code requires that both the owner and the operator of the property must qualify for the exemption, any regular user must file for the qualify for the welfare exemption. On the other hand, occasional or infrequent users are not operators and, therefore, do not need to file as an operator. If there are occasional users of the property for which exemption is sought, then another problem arises and presents yet another reason for denial that was not put on the form sent to you. The exclusive use of the property for exempt purposes is the basic test of the exemption, and we would not approve an exemption for use by groups whose activities do not qualify for the exemption. Please submit to us the names, purposes, activities, and incidence of use of the organizations that use the property. If the Foundation for Human Development also uses the property, then we must have a list of specific activities by that organization in addition to the information requested above. Until we receive this data we consider the property not to be exclusively used for exempt purposes.

I agree with you that some of the reasons we gave for denial may not be appropriate. For instance, enclosed with your recent letter were the amended articles of incorporation which met our standards. Thus, the I.D. reason will be changed. As the property not being recorded in the name of the claimant, I agree with you that this reason was erroneous. I am requesting our Assessment Standards Division to issue amended findings to reflect these changes.

We will be glad to review our determination when we receive this requested information. If the information submitted does not cause us to change our mind, then you may request a hearing before the elected Board Members to review the staff decision. It is usually after this hearing or the denial of a hearing that a court action is initiated.

Very truly yours,

Robert D. Milam
Tax Counsel

RDM:fp

bc: Mr. Jack F. Eisenlauer
Mr. William Grommet (V. Price: Please issue amended findings: W.E.U., O.N.F., V.U.P., L.F.)
DAS File
Legal Section