



STATE BOARD OF EQUALIZATION

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November 18, 1996

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Executive Director

No. 96/67

TO COUNTY ASSESSORS:

PROPERTY LEASED FOR CHURCH PARKING:
REVISED FORMS - AH 262, CHURCH EXEMPTION,
AH 263, Lessors Exemption & AH 267S, RELIGIOUS EXEMPTION

The Governor recently signed AB 1991 (Chapter 1169 of the Statutes of 1996). This bill was urgency legislation and became effective on September 30, 1996. One of the provisions of this bill repealed and added Revenue and Taxation Code Section 206.1.

Section 206.1(a) now provides that real property, whether owned or leased, which is necessarily and reasonably required for the parking of automobiles of persons who are attending religious services, or are engaged in religious services or worship or any religious activity, is exempt from taxation. Section 206.1(b) defines "real property" to include land and improvements or a possessory interest in land and improvements. It also provides that the real property need not be contiguous to the land on which the services, worship, or other religious activity is located, that the property not at other times be used for commercial purposes, as defined, and that the exemption shall apply to otherwise qualifying real property regardless of ownership.

Section 206.1(b)(4) further provides, however, that the exemption provided for in subdivision (a) shall apply to leased property:

"... only as long as the following conditions are met:

- (A) The congregation of the church, religious denomination, or sect is no greater than 500 members.
- (B) The church, denomination, or sect is engaged in a lease of real property to be used exclusively for qualifying parking purposes.
- (C) Under the terms of the lease, the church, denomination, or sect is responsible for paying the property taxes levied.
- (D) The real property is used exclusively for the parking of automobiles by persons described in subdivision (a).
- (E) The fee owner and the county agree that the fee owner shall pay the total amount of taxes that would be levied on the real property for the

“current fiscal year and the first two subsequent fiscal years in the absence of a grant of exemption pursuant to this paragraph for the current fiscal year, if the real property is used for any purpose other than the parking of automobiles by persons described in subparagraph (D) during either of those two subsequent fiscal years.”

It is important to note that the changes to Section 206.1 primarily affect leased property. Since leased property is not eligible for exemption under the welfare or religious exemptions, the church exemption must be filed annually. Subdivision (a) exempts property used for the parking of automobiles of persons who are attending religious services or who are engaged in religious services, worship, or any religious activity. Therefore, while a particular religious activity may be exempt only under the welfare or religious exemption, the leased parking would qualify only under the church exemption.

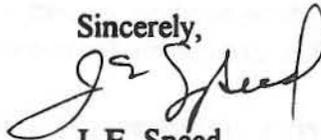
It should also be noted that subdivision (b)(4)(A) provides that the leased parking is exempt only if the congregation of the church, religious denomination, or sect is no greater than 500 members. Thus, the leased parking would not be eligible for exemption in the case of a church with a seating capacity of 200-300 but having a congregation of over 500 members.

Finally, under subdivision (b)(4)(E), the fee owner and the county must agree that, if an exemption is not granted for the current fiscal year and the property is not used for church parking during either of the first two subsequent years, the fee owner shall pay the total amount of taxes that would have been levied for those three years.

The enclosed forms AH 262, Church Exemption, AH 263, Lessors Exemption, and AH 267S, Religious Exemption, have been revised to conform to the changes brought about by AB 1991. AH 263, Lessors Exemption, has also been revised to reflect the provisions of SB 1827 (Chapter 1087, Statutes of 1996) which changed the threshold for filing property statements. As usual, a county cannot change, add to, or delete the specific wording of a Board-prescribed form, but may rearrange it to meet the county's specific needs. If you use a rearranged form, please send us two draft copies for approval. Include final prints of these forms, whether rearranged or not, with the other final printed forms you send us next February.

If you have any questions regarding this subject, please contact the Assessment Standards Division's Exemption Unit at (916) 445-4982.

Sincerely,



J. E. Speed
Deputy Director
Property Taxes Department

JES: rfs
Enclosure

Parcel Numbers or
Legal Description _____

**19 _____ CHURCH EXEMPTION
CLAIM FOR EXEMPTION FROM PROPERTY TAXES
UNDER SECTION 3 (f), 4(d), AND 5 OF ARTICLE XIII OF THE
CONSTITUTION OF THE STATE OF CALIFORNIA AND
SECTIONS 206, 206.1, 206.2, AND 256 OF THE REVENUE AND TAXATION CODE**

(See also Sections 251, 254, 255, 260, 270, and 271 of the Revenue and Taxation Code.)

*To receive the full exemption, a claimant must complete and file this form with the Assessor by March 31.
(Section 270, Revenue and Taxation Code, provides a partial exemptions for late filing of the Church Exemption.)*

State of California, County of _____

states:

(NAME OF PERSON MAKING CLAIM)

1. That as _____
(TITLE, SUCH AS PRESIDENT, ETC.)
2. of the _____
(CORPORATE OR ORGANIZATION NAME OF CHURCH)
3. the mailing address of which is _____ ZIP _____;
(GIVE COMPLETE ADDRESS)
4. the location of the property of which is _____ ZIP _____;
(GIVE COMPLETE ADDRESS)
5. that I make this claim for church exemption on behalf of said organization for the 19____-19____ fiscal year on the property listed on this form and on any accompanying forms (attach a separate form for each location);
6. that all buildings and equipment claimed as exempt are **used solely for religious worship**; or that any building in the course of construction is intended to be used solely for religious worship;
7. that the land claimed as exempt is required for the convenient use of said buildings;
8. that all real property **used** by the church upon which exemption is claimed for parking purposes is necessarily and reasonably required for the parking of automobiles of persons attending or engaged in religious worship or religious activity, and which is not at other times used for commercial purposes. "Commercial purposes" does not include the parking of vehicles or bicycles, the revenue of which does not exceed the ordinary and necessary costs of operating and maintaining the property for parking purposes. Leased property used for parking purposes is eligible for exemption only if the congregation of the church, religious congregation, or sect is no greater than 500 members.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct and complete to the best of my knowledge and belief.

SIGNATURE OF PERSON MAKING CLAIM

DATE

**THE QUESTIONS ON THE REVERSE SIDE ARE A PART OF THIS CLAIM AND MUST BE ANSWERED.
THIS EXEMPTION CLAIM IS A PUBLIC RECORD AND IS SUBJECT TO PUBLIC INSPECTION.**

Received by _____
(ASSESSOR'S DESIGNEE)
of _____
(COUNTY OR CITY)
on _____
(DATE)

**PERSON TO CONTACT DURING NORMAL BUSINESS HOURS
FOR ADDITIONAL INFORMATION**

Name _____

Address _____

Telephone Number () _____

QUESTIONNAIRE FOR CHURCH EXEMPTION

Answer each question below; give as much detail as you deem necessary to support your claim for exemption for this property. Leased property may also be exempt if listed under Lines 3 or 9 below; if leased property is listed below, it is not necessary for the lessor to also claim the exemption on the Lessors' Exemption Claim.

1. State all uses of the real estate described on the front of this form (describe by parcel if there is more than one parcel) _____

2. Schools

a. Is an elementary and/or secondary school being operated at this location? YES NO

b. Is a children's day care center being operated at this location (a children's day care center includes licensed nursery schools, preschools and infant care centers)? YES NO

NOTE: If the answer is yes to 2a or 2b above, the property is NOT eligible for the church exemption. If the property is both **owned** and **operated** by the church and used for religious worship, preschool purposes, nursery school purposes, kindergarten purposes, school purposes of less than collegiate grade (grades 1 - 12), or for the purposes of both schools of collegiate grade and schools of less than collegiate grade, the claimant may qualify for the RELIGIOUS EXEMPTION. The religious exemption has a "one-time filing" provision and should be filed by **March 31**; contact the assessor. The claimant may wish instead to annually file by **March 15** for the WELFARE EXEMPTION.

3. Is the real property listed on this claim owned by the church? YES NO If not, state the name and address of the owner

Is leased property, if any, used by the church for parking purposes? YES NO

If yes, is the congregation of the church, religious denomination, or sect greater than 500 members? YES NO

If yes, the property, or portion thereof, so used is not eligible for exemption.

NOTE: The benefit of a property tax exemption must inure to the church; if the lease or rental agreement does not specifically provide that the church exemption is taken into account in fixing the terms of agreement, the church shall receive a reduction in rental payments, or a refund of such payments, if paid, for each month of occupancy (or use), or portion thereof, during the fiscal year equal to one-twelfth of the property taxes NOT PAID during such fiscal year by reason of the church exemption.

4. Are bingo games being operated on this property? YES NO If the answer is yes, a claim for the WELFARE EXEMPTION must be filed with the assessor by March 15 each year for the property or portion of the property so used to be exempt.

5. Is any portion of this property used for living quarters for any person? YES NO If so, describe that portion _____

NOTE: Living quarters are NOT eligible for the Church Exemption or the Religious Exemption; certain living quarters may be exempt under the Welfare Exemption. (Contact the Assessor.)

6. Is any portion of this property vacant and/or unused? YES NO If so, describe that portion _____

7. Has any portion of this property been rented to, leased to, or been used and/or operated by some person or organization other than the claimant since 12:01 a.m., March 1 last year? YES NO If so, describe that portion, its use, and the number of hours per week of such use. _____

NOTE: Property used by others (except for worship only) is NOT eligible for the Church Exemption. It may be exempt if the claimant (owner) and the user/operator both file a claim for the Welfare Exemption. (Contact the assessor.)

8. Has there been any change in the use of the property or any construction commenced and/or completed on this property since 12:01 a.m., March 1 last year? YES NO If so, describe _____

9. Is any equipment or other property at this location being leased or rented from someone else? YES NO If so, list in the remarks section the name and address of the owner and the type, make, model, and serial number of the property. If the property listed is not used exclusively for religious worship, please state the other uses of the property. _____

10. REMARKS: _____

(Assessor's Return Address)

19__ LESSOR'S EXEMPTION CLAIM

PROPERTY USED FOR FREE PUBLIC LIBRARIES AND FREE MUSEUMS AND FOR PROPERTY USED EXCLUSIVELY FOR PUBLIC SCHOOLS, COMMUNITY COLLEGES, STATE COLLEGES, STATE UNIVERSITIES, UNIVERSITY OF CALIFORNIA, CHURCHES, AND NONPROFIT COLLEGES, SUBSECTIONS (d), (e) and (f) OF SECTION 3 OF ARTICLE XIII OF THE CALIFORNIA CONSTITUTION.

(Property tax benefits claimed herein must be passed on to the lessee. See Sections 202.2 and 206.2 of the Revenue and Taxation Code.)

Name
Street
City
State and ZIP Code

To receive the full exemption, this claim must be filed with the Assessor by March 15, 19__, except that the church exemption claim must be filed by March 31, 19__.

states:

NAME OF PERSON MAKING CLAIM

1. As

TITLE, SUCH AS PRESIDENT, ETC.

2. Of the

CORPORATE NAME, IF INCORPORATED

Telephone No. ()

MAILING ADDRESS

3. That this claim for exemption is made on behalf of said organization for the 19__-19__ fiscal year for the property listed below:

Table with 2 columns: PROPERTY DESCRIPTION and STATE PRIMARY AND INCIDENTAL USE OF PROPERTY DESCRIBED. Rows include Land: Area, Buildings and improvements, and Personal Property.*

- 4. That the name and address of the qualifying institution(s)* is
5. That the lease confers upon the lessee the exclusive right to possession and use of the property except that for free public libraries and free museums the statute does not require "exclusive" use.
6. That as used herein a qualifying institution is one whose property qualifies for the public school, community college, state college, state university, University of California, free public library, free museum, or nonprofit college property tax exemption.
7. That property included in this claim for exemption will, will not, be reported by the lessor on a business property statement submitted to the assessor (see the instructions for property statement filing requirements).
8. That an affidavit, in which the lessee declares it exclusively uses the property for exempt purposes (check one) is attached, will be submitted by the lessor with the property statement.

Failure to submit the lessee's affidavit will result in denial of the exemption for the lessor in cases of lessees which are public schools, community colleges, state colleges, state universities, University of California, churches, and nonprofit colleges. Submission of the lessee's affidavit after the date the claim form is due (for taxpayers not required to file a property statement) or after the last day for filing the lessor's property statement without penalty under Section 463 of the Revenue and Taxation Code (for taxpayers required to file a property statement) will result in a portion of the exemption being denied. Lessee's affidavit not required for free public library or free museum exemption.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct and complete to the best of my knowledge and belief.

SIGNATURE OF PERSON MAKING CLAIM

DATE

THIS EXEMPTION CLAIM IS A PUBLIC RECORD AND IS SUBJECT TO PUBLIC INSPECTION.

*If there are numerous items of property at various locations, you may attach a list that clearly identifies the property, the name and address of the lessee, and which exemption is applicable.

INSTRUCTIONS

The person signing this claim should enter his or her name on the first line.

- Line 3.** If land and/or building, enter the street address and parcel number. If personal property, describe in sufficient detail to identify (i.e., type, make, model, serial number, etc.). List the primary use to be made of the property; list other known uses of the property.
- Line 4.** Enter the name and address of the lessee. If there is more than one lessee, you may attach an itemized list.
- Line 7.** Check the appropriate box. If you own taxable personal property in any county whose aggregate cost is \$100,000 or more for any assessment year, you must file a property statement with the assessor of that county whether or not he requests you to do so. Any person not otherwise required to file a statement shall do so upon request of the Assessor regardless of aggregate cost.
- Line 8.** If the Lessee is a public school, community college, state college, state university, University of California, church or nonprofit college, you must submit evidence of the lessee's exclusive use of the property for exempt purposes. Submit in accordance with the box checked on the form an affidavit of the lessee declaring under penalty of perjury that the property is exclusively used for the purpose for which is conferred. In the case of free public library or free museum, exclusive use is not required, and the fact of the lessee's possession is sufficient evidence of use.
If the property, or a portion thereof, for which exemption is claimed is a student bookstore that generates unrelated business taxable income as defined in Section 512 of the Internal Revenue Code, property taxes as determined by establishing a ratio of the unrelated business taxable income to the bookstore's gross income will be levied.

Property tax benefits claimed herein must be passed on to the lessee in the form of:

- (1) Reduction in rental payments (Sections 202.2 and 206.2, Revenue and Taxation Code).
- (2) Refund of rental payments, if paid (Sections 202.2 and 206.2, Revenue and Taxation Code).
- (3) Claim by lessee under the provisions of Section 5096, Revenue and Taxation Code, for a refund of taxes paid by a lessor (Section 202.2, Revenue and Taxation Code.)

Note: Where the lessee files a claim for an exemption mentioned in the heading of this form and reports leased property, such property will be allowed the exemption if used in an exempt manner.

Sample Affidavit Form for Execution by Institutional Lessees

State of California

County of _____ Return to _____

OWNER-LESSOR

_____ hereby declares:

NAME OF DECLARANT

1. That he or she is the _____ of _____
TITLE OR OFFICE NAME OF LESSEE INSTITUTION

2. That said institution is a _____
TYPE OF INSTITUTION, E.G., NONPROFIT PRIVATE COLLEGE

qualifying for property tax exemption and meets all requirements prescribed by law for exemption.

3. That said institution leases from _____ the following
NAME OF LESSOR

_____ property as of January 1 of this year. (Describe personal property — type, make,
REAL OR PERSONAL

model, serial number, etc.)

a. _____

b. _____

c. _____

4. That this leased property is being used/used exclusively for _____ purposes.

a. Date the lease was signed _____

b. Commencement date of the lease _____
The assessor may request a copy of the lease agreement(s)].

c. Is the property, or portion thereof, described herein used by a church for parking purposes? YES NO If yes, is the congregation of the church, religious denomination, or sect greater than 500 members? YES NO If yes, the property, or portion thereof, so used is not eligible for exemption.

5. Is the property, or a portion thereof, for which exemption is claimed a student bookstore that generates unrelated business taxable income as defined in Section 512 of the Internal Revenue Code? Yes No

If the answer is yes, a copy of the institution's most recent tax return filed with the Internal Revenue Service must accompany this claim. Property taxes as determined by establishing a ratio of the unrelated business taxable income to the bookstore's gross income will be levied.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct and complete to the best of my knowledge and belief.

SIGNATURE OF DECLARANT

DATED

Parcel Numbers or
Legal Description _____

**RELIGIOUS EXEMPTION
CLAIM FOR EXEMPTION FROM PROPERTY TAXES
UNDER SECTIONS 4 (b), 5, AND 6 OF ARTICLE XIII OF THE
CONSTITUTION OF THE STATE OF CALIFORNIA AND
SECTIONS 206.1, 207, 214.4, 257, AND 257.1 OF THE REVENUE AND TAXATION CODE**

(See also Sections 251, 255, 260, 270, and 271 of the Revenue and Taxation Code.)

*To receive the full exemption, a claimant must complete and file this form with the Assessor by March 31.
(Section 270, Revenue and Taxation Code, provides a partial exemption for late filing of the Religious Exemption.)*

ONCE GRANTED, THE EXEMPTION REMAINS IN EFFECT UNTIL TERMINATED

State of California, County of _____

_____ states:
(NAME OF PERSON MAKING CLAIM)

1. That as _____
(TITLE, SUCH AS PRESIDENT, ETC.)
2. of the _____
(CORPORATE OR ORGANIZATION NAME OF CHURCH)
3. the mailing address of which is _____ ZIP _____;
(GIVE COMPLETE ADDRESS)
4. the location of the property of which is _____ ZIP _____;
(GIVE COMPLETE ADDRESS)
5. that I make this claim for religious exemption on behalf of said organization beginning with the 19____-19____ fiscal year on the property listed on this form and on any accompanying forms (attach a separate form for each location);
6. that all buildings, equipment, and land claimed as exempt are **used exclusively for religious purposes**; or that any building in the course of construction is intended to be used solely for religious purposes;
7. that the land claimed as exempt is required for the convenient use of said buildings;
8. that the property is owned by an entity organized and operating exclusively for religious purposes;
9. that the entity is nonprofit;
10. that no part of the net earnings inures to the benefit of any private individual;
11. that all real property **owned by the church**, or government owned real property **used** by the church, upon which exemption is claimed for parking purposes is necessarily and reasonably required for the parking of automobiles of persons attending or engaged in religious worship or religious activity, and which is not at other times used for commercial purposes. "Commercial purposes" does not include the parking of vehicles or bicycles, the revenue of which does not exceed the ordinary and necessary costs of operating and maintaining the property for parking purposes.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct and complete to the best of my knowledge and belief.

SIGNATURE OF PERSON MAKING CLAIM

DATE

**THE QUESTIONS ON THE REVERSE SIDE ARE A PART OF THIS CLAIM AND MUST BE ANSWERED.
THIS EXEMPTION CLAIM IS A PUBLIC RECORD AND IS SUBJECT TO PUBLIC INSPECTION.**

Received by _____
(ASSESSOR'S DESIGNEE)
of _____
(COUNTY OR CITY)
on _____
(DATE)

**PERSON TO CONTACT DURING NORMAL BUSINESS HOURS
FOR ADDITIONAL INFORMATION**

Name _____

Address _____

Telephone Number () _____

GENERAL INFORMATION

A church that **owns its own** property and **operates its own** preschool, nursery school, kindergarten, elementary/secondary school, or both schools of collegiate grade and schools of less than collegiate grade, or operates this type of school on property which is owned by another church may file for the **RELIGIOUS EXEMPTION** instead of the Welfare Exemption. Property used for school purposes only, where there are no church services, does not qualify for the Religious Exemption but may qualify for the Welfare Exemption

The law provides for one-time filing for the Religious Exemption by the claimant and the annual mailing of a termination notice by the assessor. Penalties for failure to terminate the exemption when no longer eligible are also a part of the law.

Portions of the property used for parking purposes are also exempt if **owned** by the religious organization or owned by the government and used by the church under the provisions of Section 206.1 of the Revenue and Taxation Code.

If any other activities are conducted on the property such as bingo, a convent or a retreat, summer camp, or if **another organization** uses the property (other than **another church** using it for religious worship or church school purposes), a Welfare Exemption claim must be filed; please contact the assessor's office **immediately**. The deadline for timely filing of the Welfare Exemption claim is **March 15** each year.

Leased property generally is not exempt under the religious (or the welfare) exemption. However, it may qualify for the Church Exemption if used exclusively for worship and/or related parking. Contact the assessor if your church has leased property.

QUESTIONNAIRE FOR RELIGIOUS EXEMPTION

Answer each question below; give as much detail as you deem necessary to support your claim for exemption for the property at this location (include all parcels).

1. Is there a sanctuary (church) on or adjacent to this property? YES NO If not, a claim for the WELFARE EXEMPTION must be filed with the assessor by March 15 each year for the property or portion of the property so used to be exempt.
2. If applicable, please check the appropriate box(es) for the following type schools that are being operated on this property:
 Preschool Kindergarten Secondary school
 Nursery school Elementary school Both secondary-college
3. Is the real property listed on this claim owned by the church? YES NO If not, state the name and address of the owner. (Contact the assessor.) _____

4. Are bingo games being operated on this property? YES NO If the answer is yes, a claim for the WELFARE EXEMPTION must be filed with the assessor by March 15 each year for the property or portion of the property so used to be exempt.
5. Is any equipment or other property at this location being leased or rented from someone else? YES NO If so, list in the remarks section the name and address of the owner and the type, make, model, and serial number of the property.

NOTE: This property may NOT be eligible for this exemption but may be eligible for the Church Exemption if used exclusively for worship. (Contact the assessor.)

6. Is any portion of this property used for living quarters for any person? YES NO If so, describe that portion _____

NOTE: Living quarters are NOT eligible for either the Religious Exemption or the Church Exemption.

7. Is any portion of this property vacant and/or unused? YES NO If so, describe that portion _____

8. Is any portion of this property being rented to, leased to, used and/or operated by some person or organization other than the claimant? YES NO If so, describe that portion, its use, and the name and address of the lessee / operator. _____

NOTE: Property used by others may not be eligible for the Religious Exemption. (Contact the assessor.)

9. Has there been any change in the **use** of the property or any **construction** commenced and/or completed on this property since 12:01 a.m., March 1 last year? YES NO If so, describe _____

10. REMARKS: _____