



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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May 28, 1992

Mr. Eugene M. Andersen

Dear

This is in response to your May 5, 1992, letter concerning property taxation of parking lot properties used by both qualifying non-profit organizations and by non-qualifying organizations.

In my April 10, 1992, letter, I stated in this regard:

"With respect to multiple story buildings owned by qualifying organizations and used both by qualifying organizations and by nonqualifying organizations, consistent with the above, inquiry of several county assessors disclosed that portions of the buildings used by qualifying organizations for qualifying activities were receiving the exemption, while portions of the buildings used by qualifying organizations for nonqualifying activities or by nonqualifying organizations were not. As to lands used in conjunction therewith, they were generally exempt or nonexempt to the same extent that portions of the buildings were exempt and not exempt. An exception however, was that where land, for example, a parking lot, was used both by qualifying and nonqualifying organizations, such land was not receiving the exemption."

Per your letter, the parking lot ought to receive exemption in proportion to its exempt use. In this regard, you cite Oates v. County of Sacramento (1978) 78 Cal. App. 3d 745 and suggest that a proportionate amount of the parking lot should be exempt unless there is reason to believe that the parking lot is proportionately used by non-qualifying organizations:

"We turn to the issue of apportionment. The same building is leased to the county superintendent of schools (32,960 square feet) and to a nonexempt

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private college (6,072 square feet). Is the owner of the property entitled to an exemption for that portion leased to the superintendent?

"Cedars of Lebanon Hosp. v. County of Los Angeles (1950) 35 Cal.2d 729 [221 P.2d 31, 15 A.L.R.2d 1045], controls. The court approved apportionment of property so that tax is assessed only against the nonexempt portions. In Y.M.C.A. v. County of L.A. (1950) 35 Cal.2d 760 [221 P.2d 47], the same approach was followed....

"However, we must remand to the trial court the apportionment issues in one particular. The leased parcel contains a large parking lot. The stipulation of facts does not tell us which portion is used by the superintendent. On remand the trial court must make findings which will specify which portions of the entire parcel are to be considered exempt."
(p. 751)

In our view, parking lots used both by qualifying and nonqualifying organizations may be eligible, in part, for the exemption, or they may be completely ineligible for the exemption. If an entire parking lot is used both by qualifying and nonqualifying organizations, the property's use is mixed, not exclusive, and the entire property is ineligible for the exemption. On the other hand, if a portion of a parking lot is used exclusively by a qualifying organization, and if the remaining, separate portion is used exclusively or otherwise by a nonqualifying organization, that separate portion of the parking lot used exclusively by the qualifying organization is eligible for the exemption. Such is consistent with Cedars of Lebanon Hospital v. Los Angeles County, supra, and Y.M.C.A. v. Los Angeles County, supra, cited by the court in Oates v. Sacramento County, supra, and, as I understand your letter, a restatement of that portion thereof.

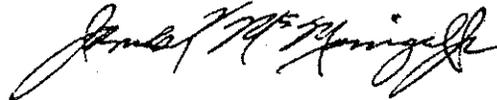
With respect to your April 26, 1991, letter to the Board regarding California Healthcare System, its claim for exemption, and March 28, 1991, finding sheet(s), upon review, the enclosed copy of a May 21, 1991, amended finding for the 1991-92 fiscal year was sent to California Healthcare System but, apparently, not to you. As you will note, staff found the proposed amendment to the System's Article of Incorporation Fourth to be acceptable, upon actual amendment, filing, and forwarding of certified copy; but staff remained of the view that the property was not used exclusively for charitable purposes and questioned the System's charitable aspect:

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N.E.U., C.N.A., Claimant provides services to a for-profit entity which conflicts with Revenue and Taxation Code Section 214.

If you have specific questions in these regards, please feel free to contact Ms. Colleen Dottarar or Mr. James Barga of our Assessment Standards Division's Exemption Unit at (916) 445-4982.

Very truly yours,



James K. McManigal, Jr.
Senior Staff Counsel

JKM:jd
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Enclosure

cc: Mr. John W. Hagerty
Mr. Verne Walton
Mr. James Barga
Ms. Colleen Dottarar