

ASSESSORS' HANDBOOK
SECTION 265

CEMETERY EXEMPTION

AUGUST 1977

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CALIFORNIA STATE BOARD OF EQUALIZATION

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CYNTHIA BRIDGES, EXECUTIVE DIRECTOR



FOREWORD

Certain properties used exclusively for the burial of the human dead are free from taxation and special assessments. This handbook contains information relative to the administration of the exemption. It is prepared pursuant to Section 251 of the Revenue and Taxation Code.

This handbook is written in conjunction with Assessors' Handbook Section 510C, *Appraisal of Cemeteries*, as the two are closely interrelated. Research for both was conducted throughout the state. The Standards Committee of the State Association of County Assessors reviewed the manual, and it was adopted by the Board on July 6, 1971. The handbook was updated in August 1977 to include the latest statutes and claim form.

Jack F. Eisenlauer, Chief
Assessment Standards Division
August 1977

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CHAPTER 1: INTRODUCTION

This handbook presents current concepts and legal interpretations of the cemetery exemption which is provided for in Section 3(g), Article XIII of the California Constitution and Section 204 of the Revenue and Taxation Code. It contains information, opinions, and guidelines to assist assessors in carrying out the law relating to the exemption.

CHAPTER 2: CONSTITUTIONAL, STATUTORY, AND CASE LAW

CALIFORNIA CONSTITUTION

- Section 3(g) - Article XIII - Exemption of Burial Property
- Section 6 - Article XIII - Failure to Claim Exemption Deemed a Waiver
- Section 14 - Article XIII - Situs

REVENUE AND TAXATION CODE PROVISIONS

- Section 204 - Cemetery Exemption Specified
- Section 251 - Forms and Procedures Prescribed by the State Board of Equalization
- Section 254 - Annual Exemption Affidavit
- Section 255 - Time for Filing Affidavit
- Section 256.5 - Cemetery Exemption Affidavit Contents
- Section 260 - Waiver of Exemption
- Section 270 - Late Filing
- Section 271 - Property Acquired After Lien Date; Organizations Not Existing On Lien Date
- Section 465 - Destroying Documents

CALIFORNIA HEALTH AND SAFETY CODE PROVISIONS

- Section 8100 - Definition of Cemetery
- Section 8110 - Record of Interments
- Section 8115 - City or County Ordinance May Prescribe Standards
- Sections 8125-8128 - Dedication of Public Cemeteries
- Section 8132 - Management of Cemeteries
- Section 8250 - Exemptions
- Section 8252 - Cemetery Incorporation
- Section 8302-8308 - Cemetery Authority Powers
- Section 8330-8331 - Record of Ownership of Plots
- Section 8550-8551 - Dedication (Private Cemetery)
- Section 8573 - Selling of Pre-Need Crypts

- Section 8580 - Removal of Dedication (Private Cemetery)
- Sections 8701-8711 - Endowment Care
- Section 8726 - Endowment Care Funds

COURT DECISIONS

1. *Cypress Lawn Cemetery Assn. v. San Francisco* (1931) 211 Cal. 387. (To be exempt, property must itself be used or held for cemetery purposes.)
2. *San Gabriel Cemetery Assn. v. Los Angeles County* (1942) 49 Cal. App. 2d 624. (Defines “profit.”)
3. *Pomona Cemetery Assn. v. Los Angeles County* (1942) 49 Cal. App. 2d 626. (Cemetery property declared to be exempt when developed and offered for sale for burial purposes.)
4. *Laurel Hill Cemetery Assn. v. San Francisco* (1947) 81 Cal. App. 2d 371. (Land is taxable when bodies have been removed and cemetery dedication is extinguished.)
5. *Memorial Hills Assn. v. Sequoia Investment Corp.* (1958) 157 Cal. App. 2d 119. (Passive holding of land without improvements and lot sales activity does not support tax exemption.)
6. *Westminster Memorial Park v. Orange County* (1960) 54 Cal. 2d 488. (Cemetery property purchased under a percentage sales contract may be tax exempt.)
7. *Sutter Realty Co. v. City of Sacramento* (1944) 64 Cal. App. 2d 1. (Failure to protest assessment does not waive cemetery exemption.)
8. *Sunset View Cemetery Assn. v. Hitchcock* (1968) (Contra Costa Sup. Ct. No. 108616.) (Mortuary and crematory are not tax exempt.)
9. *Hollywood Cemetery Assn. v. Powell* (1930) 210 Cal. 121. (Holders of cemetery lots are not owners in fee.)

CHAPTER 3: EXEMPTION LIMITATIONS

Article XIII, Section 3(g) of the Constitution provides for property tax exemption of:

Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit. This property is also exempt from special assessments.

Section 8250 of the California Health and Safety Code provides:

Except as provided in subdivision (c) of this section, the provisions of this part do not apply to any of the following:

- (a) Any religious corporation, church, religious society or denomination, a corporation sole administering temporalities of any church or religious society or denomination, or any cemetery organized, controlled, and operated by any of them.
- (b) Any public cemetery
- (c) Any private or fraternal burial park not exceeding 10 acres in area, heretofore established . . . and (2) all of the provisions of this part shall apply to any such cemetery that collects a care, maintenance or embellishment deposit or funds for commodities or services.

Section 8252 of the California Health and Safety Code provides:

“It is unlawful for any corporation, co-partnership, firm, trust, association, or individual to engage in or transact any of the businesses of a cemetery within this state except by means of a corporation duly organized for such purposes.

Organizations referred to in Section 8250 may establish, maintain, manage, or operate a cemetery and conduct any or all of the business of a cemetery, either for or without profit to its membership or stockholders.

For purposes of this manual, we will limit our discussion to privately owned cemeteries. Generally speaking, there are two kinds of privately owned cemeteries—those that are profit-seeking and those that are not. Let us look first at the nonprofit cemeteries.

NONPROFIT CEMETERIES

In order for a cemetery to be classified as nonprofit, the cemetery property must be owned by a nonprofit corporation or an organization referred to in Section 8250 of the Health and Safety Code. In the case of a corporation, its nonprofit status must be recited in its articles of incorporation. It should be noted, however, that profit does not refer to the financial benefit that accrues to a cemetery organization through the sale of burial space at a price in excess of its cost, but means net earnings whose benefits accrue directly or indirectly to the stockholders or

members of the association. Court cases have set up the criteria as to what constitutes a nonprofit owner for purposes of this exemption. For example, it was held in the case of *San Gabriel Cemetery Association v. Los Angeles County* (1942) 49 Cal. App. 2d 624 that a cemetery company or association may derive income in excess of expense without affecting the exempt status of its property if the excess is devoted to the **upkeep** or **expansion** of the cemetery property.

Profit means income or gain flowing directly or indirectly to an individual other than to creditors who have rendered services or provided property the same as any general creditor would for a noncemetery debtor. This point was made in the case of *Westminster Memorial Park v. Orange County* (1960) 54 Cal. 2d 488, in which the court found a debtor-creditor relation was formed by a contract between the sellers of a cemetery site and the purchasing cemetery corporation. Title to the property was transferred to the corporation, which qualified for the exemption. The fact that the corporation had to pay, pursuant to the land sales contract, a percentage of all plot sales to the seller did not mean the corporation was being operated for a profit. The contract arrangement did not destroy the nonprofit character of the corporation, since there was no evidence that the relationship was a sham, or that the cemetery corporation was the alter ego of the sellers.

DEVELOPED LAND

All developed land within a nonprofit cemetery is eligible for exemption. The exemption is applicable only when the land is actively used or held for exempt purposes. This means the land must be prepared, made available, maintained, and offered for sale as burial sites. It is our opinion that such active holding requires (a) the filing of a map or plat and a written declaration of dedication pursuant to Health and Safety Code Section 8551 by any organization not exempted by Section 8250 of said code, (b) the obtaining of a cemetery use permit from the appropriate local authority, and (c) positive evidence of sales and interment activities.

It should be noted that cemeteries exempted from the requirements of Section 8551 will not in most instances have complied with the statutory procedures for dedicating property to cemetery uses. They should, however, be requested to designate in writing the precise amount of property they have informally dedicated to such use.

Unsold plots, whether intermixed with sold plots or separate from them, should be exempted if they are available for purchase and use. Lots held by individual owners for future use by themselves or their families are exempt. However, plots sold to brokers for purposes of resale should be taxed until resold, since presumably these brokers are holding them for sale at a profit and will not, after the sale, devote any part of the profit to the maintenance of the cemetery property.

DETERMINING THE TAXABILITY OF PASSIVELY HELD LAND

The purpose of the cemetery exemption is to protect the final resting place of the human dead, either because of the sentiments attaching to cemeteries or in recognition that a tax lien on a used burial site could hardly be foreclosed. Excess land holdings, however, should not go untaxed.

One of the most difficult aspects of the cemetery exemption is its proper application to so-called passively held land. Passively held land may be defined as land that is held but not presently developed for burial purposes. If excess land is **used** for a nonburial purpose, it is clearly taxable. However, if a nonprofit cemetery corporation holds land for future use, the question arises: What amount of land, if any, should be taxable? Property Tax Rule 132 says that such land is exempt if it satisfies certain other requirements and:

The size of the tract [land holding] being held is reasonable upon the basis of population and mortality trends and tables for the area, [and] the volume of burial conducted and anticipated by the cemetery or organization holding the property . . .

The word “reasonable” is imprecise by design and requires responsible interpretation. The holding of 200 acres of undeveloped excess land may be appropriate in some instances, while 20 acres may be excessive in others.

The basis for this determination lies with the anticipated period required for putting the property into actual cemetery use. Since neither the State Constitution, the Revenue and Taxation Code, the California Administrative Code, nor court decisions have defined a specific time period necessary for this action, we feel that the time element may be best shown by illustration.

Let’s assume a nonprofit cemetery corporation has 1,000 acres of undeveloped, dedicated, passively held land adjacent to a 300-acre developed cemetery. The developed portion of the cemetery is 90 percent sold at the present time. Let us further assume that the anticipated rate of absorption (sales) is 10 acres¹ per year over the remaining economic life of the cemetery. The sold portions consist of both “at-need” and “pre-need” sales.² The anticipated life of the 1,000 undeveloped acres plus the 30 unsold acres in the existing cemetery is 103 years. It is unreasonable to exempt from taxation property that will not be used for 103 years.

Experience with a number of cemetery corporations has shown that companies can initiate, and in fact have initiated, court proceedings resulting in the removal of the cemetery dedication.³ These lands are then free to be put to their highest and best immediate use.

Although Property Tax Rule 132 provides the basic test for determining the amount of passively held land necessary to accommodate the anticipated cemetery usage of each individual cemetery, we suggest the assessor give special attention to any claim for exemption when it involves passively held land that is in excess of the need projected for the next 50 years.

When there is estimated to be sufficient **developed** cemetery land to last the cemetery association 50 years or more, it is difficult to justify the exemption of any passively held land. On the other

¹ Eight net acres plus two more for incidental use equals ten gross burial acres.

² Cemeteries generally get most of their “at-need” business in a densely populated area from a ten-mile radius. “Pre-need” sales have a much greater drawing area.

³ See Health and Safety Code Section 8580 as to the authority of the Superior Court to remove the dedication.

hand, if there were only enough developed land to last five years, it would not seem unreasonable to exempt a 45-year supply of passively held land.

In summary, a nonprofit cemetery corporation is eligible for the exemption on its land as follows:

1. All developed burial areas, both sold and unsold, are eligible for exemption. These include any incidental cemetery usage areas (roads, paths, and embellishment areas).
2. Passively held land may be exempt if it is estimated that it will be put to use (sold) within a reasonable period of time. The total amount of exempt passively held land should be added to the developed but, as yet, unsold land in calculating the total amount of land available and for determining the amount of passively held land that should be exempted.

IMPROVEMENTS

Certain cemetery improvements owned by nonprofit cemetery corporations may be eligible for exemption. All buildings and improvements used exclusively for interment purposes are exempt. Such buildings and improvements include columbariums, mausoleums, and outdoor crypts. A residence may be eligible for exemption if it is used solely as a residence for a person who is caretaker and/or night watchman, and the appraiser determines that this service is necessary for the care and upkeep of the cemetery.

Mortuary and crematory operations are not tax exempt because they are not used “for the burial or other permanent deposit of the human dead”⁴ nor are such improvements as floral sales shops and casket-manufacturing plants eligible for exemption. Likewise, we do not envision chapels as within the cemetery exemption, although depending on the exact nature of the use to which they are put, it might be appropriate to apply the church or welfare exemption.

It is our opinion that an administrative office located **on** cemetery property can qualify for exemption if: (1) it is used exclusively for the purpose of organizing and directing the operational functions of the cemetery, (2) it serves as a facility for the storage of records and the completion of official reports required by law such as those relative to general and special endowment care funds, and (3) if it is used as a place where those interested may be informed of the services available or the ownership or location of a particular grave.

PERSONAL PROPERTY

If personalty is used primarily for the upkeep of any facility which is incidental to and reasonably necessary for the accomplishment of cemetery purposes, it is totally exempt. This personalty might include unlicensed mobile equipment, tools, and machinery that are used primarily for cemetery purposes. Equipment, furnishings, art and statuary work in exempt buildings may also be exempt.

⁴ *Sunset View Cemetery Association v. Hitchcock* (1968) Contra Costa Sup. Ct. No. 108616.

PROFIT-SEEKING CEMETERIES

Cemeteries organized for profit are not eligible for the same exemptions afforded to nonprofit cemeteries.

LAND

Burial plots within a profit-seeking cemetery are exempt from taxation once they are sold, provided the buyers do not hold them for profit.⁵ No unsold plots in a profit-seeking cemetery are eligible for exemption, nor is any passively held land. For appraisal and exemption purposes, it is recommended that the different units or parts of a cemetery be considered separately. On page 10 is an example of the different parts or components that may be found in a cemetery.

Incidental cemetery usage areas (roads, paths, and embellishment areas) in a portion of a cemetery that is profit-organized are exempt in the proportion that the exempt acreage in that portion bears to the total acreage in that portion.⁶ It is necessary to calculate the total area within the developed burial area (including roadways, paths, and embellishment areas), and to know the total number of plots as well as the total number of sold plots. When these are known, it becomes a simple mathematical computation to arrive at the amount of land eligible for exemption. For example, suppose there are 60 acres in the developed portion of a hypothetical cemetery. Five acres are devoted to building sites, leaving 55 acres in plots and incidental areas. The plat map shows a total of 60,500 plots. Sixty thousand five hundred plots divided by 55 acres indicates an average of 1,100 plots per acre. For every 1,100 plots that are sold, one acre of burial and incidental land is exempt.

The cemetery must keep records showing the ownership of all plots in the cemetery which have been conveyed, as well as records of all transfers of plots from one purchaser to another. The transfer of any plot is not complete or effective until recorded on the books of the cemetery.⁷ The cemetery, therefore, is the logical place to obtain the total number of plots in the development, as well as the number that have been sold.

Land which is the site of a mausoleum and columbarium may be exempt or partially exempt. If all the interment space located within the improvement is sold, the entire site is exempt (provided the improvement is used solely for interment purposes). If the spaces are only partially sold, the site is exempt in the same proportion as the improvement.⁸ In other words, if the improvement is one-third exempt, one-third of the land would also be exempt.

IMPROVEMENTS

In a profit-seeking cemetery, only those improvements containing interment space may be eligible for exemption or partial exemption. These improvements will include mausoleums, columbariums, and outdoor crypts. Only the sold portions of these improvements are eligible for

⁵ California Constitution, Article XIII, Section 3(g).

⁶ California Administrative Code, Title 18, Section 132.

⁷ Health and Safety Code, Section 8331.

⁸ See following paragraph for methods of determining exempt portion of improvements.

the exemption. The proportion that the exempt burial property bears to the total capacity of the burial property in a mausoleum or columbarium can be determined by reference to either the number or the volume of crypts or niches.⁹

PERSONAL PROPERTY

Personal property owned by a profit-seeking cemetery association that is used exclusively for upkeep of the interment spaces is eligible for exemption. Personal property expensed against the endowment care fund will normally be eligible for exemption. This property may consist of tractors, lawn mowers, etc., and must be used only for the upkeep and maintenance of the sold cemetery property. Personal property or equipment used for cemetery development or expansion will not qualify for exemption. Art and statuary work may be exempted in the same proportion that the improvement in which it is located is exempt. Any statuary work offered for sale is not eligible for exemption. Statuary work intended for use as an embellishment, may be exempted in the same proportion that sold burial area bears to total burial area.

DETERMINATION OF TAXABILITY

The following examples illustrate the determination of the taxability of a cemetery property. The first example is a profit-seeking cemetery; the second is a nonprofit cemetery.

⁹ California Administrative Code, Title 18, Section 132.

PROFIT-SEEKING CEMETERY

Let us assume a hypothetical profit-seeking cemetery of 50 acres established in 1948 with this distribution of acreage:

Building Sites	Acreage	
Office building	0.70	
Mausoleum	1.00	
Columbarium	0.30	
Mortuary	0.70	
Crematory	0.40	
Outside crypts	2.50	
Floral sales shop	0.50	
Two chapels	0.70	
Shop for casket building	1.00	
Caretaker's residence	0.20	
Total building site acreage		8.00

Gravesites	Acreage	
Sold acreage	20.00	
Unsold acreage	10.00	
Total		30.00
Incidental lands	12.00	
Total cemetery area		50.00

The breakdown of taxable and tax-exempt property is shown below.

Item	Acreage		Improvements	
	Taxable	Tax Exempt	Percent Taxable	Percent Exempt
Office building	0.70	0.00	100	0
Mausoleum ¹⁰	0.50	0.50	50	50
Columbarium ¹⁰	0.15	0.15	50	50
Mortuary	0.70	0.00	100	0
Crematory	0.40	0.00	100	0
Outside crypts ¹¹	1.50	1.00	60	40
Floral sales	0.50	0.00	100	0
Two chapels	0.70	0.00	100	0
Casket shop	1.00	0.00	100	0
Caretaker's residence	0.20	0.00	100	0
Burial sites ¹²	10.00	20.00	—	—
Incidental land ¹³	4.00	8.00	—	—
Totals	20.35	29.65		

¹⁰ The percentage or proportion that the exempt burial property bears to the total burial property in a mausoleum or columbarium is determined, at the assessor's option, by reference to either the number or the volume of crypts or niches. In this example, it is indicated that 50 percent have been sold.

¹¹ In this case the outside crypts are about 40 percent occupied. The same percentage is applied to the embellished area pertaining to these crypts.

¹² Once burial sites are sold and no longer held for profit, they are tax exempt.

¹³ Roads, paths, and embellishment areas are exempt in the same proportion that sold burial area bears to total burial area. If there is more than one subdivision in the cemetery, each should be handled independently. These figures do not include incidental land in conjunction with the mausoleum, columbarium, and crypts; the incidental land for these portions of the cemetery is included in the acreage figures shown for these types of burial sites.

NONPROFIT CEMETERY

If the preceding example was a nonprofit cemetery, the breakdown would be as follows:

Item	Acreage		Improvements	
	Taxable	Tax Exempt	Percent Taxable	Percent Exempt
Office building	0.00	0.70	100	0
Mausoleum	0.00	1.00	0	100
Columbarium	0.00	0.30	0	100
Mortuary	0.70	0.00	100	0
Crematory	0.40	0.00	100	0
Outside crypts	0.00	2.50	0	100
Floral shop	0.50	0.00	100	0
Two chapels	0.70	0.00	100	0
Casket shop	1.00	0.00	100	0
Caretaker's residence	0.00	0.20	0	100
Burial sites	0.00	30.00	—	—
Incidental land	0.00	12.00	—	—
Totals	3.30	46.70		

Mortuary and crematory operations are not tax exempt because they are not used “for the burial or other permanent deposit of the human dead”¹⁴; neither are florist shops, chapels, and casket building shops. The caretaker’s house, if considered to be held exclusively for the care, maintenance, or upkeep of the property, is eligible for the cemetery exemption.

SUMMARY

Taxable components of a **profit-seeking** cemetery are:

1. All unsold plots, crypts, and niches.
2. Incidental land—in the same proportion as the unsold net acreage bears to the total net acreage.
3. All passively held land.
4. Miscellaneous buildings such as offices, crematory, mortuary, floral shops, chapels, caretaker’s residence, etc.
5. Property used for activities not incidental to a cemetery operation.
6. Land under improvements not totally exempt—in the same proportion as the exempt burial property (improvements) bears to the total burial property (improvements located on the land in question).

In a **nonprofit** cemetery the taxable items include:

1. Property not used for burial or incidental purposes (i.e., mortuaries, crematories, floral shops, and chapels).
2. Passively held land that does not meet the requirements set forth in Property Tax Rule 132.

¹⁴ California Constitution, Article XIII, Section 3(g); *Sunset View Cemetery Association v. Hitchcock* (1968) Contra Costa Sup. Ct. No. 108616

CHAPTER 4: CLAIM FOR CEMETERY EXEMPTION

FORM: CEMETERY EXEMPTION (SBE-ASD 265 9/13/74)

The claim must conform with the sample on page 16, as required by Section 251 of the Revenue and Taxation Code. The preferred size for the affidavit form is 8½ inches by 11 inches.

RECEIPT

It is recommended that the person filing the claim form be given a carbon copy of the acknowledged claim as a receipt. Experience has shown that this practice avoids embarrassment in case of error or a lost claim.

TIME FOR FILING

Section 255 of the Revenue and Taxation Code specifies that the affidavit for exemption shall be filed with the assessor between the lien date and 5 p.m. on March 15. Section 260 of the Revenue and Taxation Code provides that if a person fails to follow the required procedure, the exemption is waived by such person. The California Supreme Court, in the case of *Chesney v. Byram*, 15 Cal. 2d 460, upheld this requirement and stated that the filing of the proper affidavit within the prescribed time was a prerequisite to obtaining the exemption.

LATE FILING

Section 270(a) of the Revenue and Taxation Code contains remedial provisions of late exemption claims. Where a timely claim is not filed on or before March 15.

1. Ninety percent of any tax, penalty, or interest shall be canceled or refunded if the claim is filed on or before March 1 of the next calendar year.
2. Eighty-five percent of any tax, penalty, or interest shall be canceled or refunded if the claim is filed after March 1 of the next calendar year.

Section 270(b) provides that notwithstanding (1) and (2) above, the maximum total amount of tax, penalty, or interest on property entitled to relief shall be \$250. The \$250 should not be based on each parcel in a claim, or on each claim if there is more than one claim, but on the claimant's total property that is exempt in the county. Any excess shall be canceled under the provisions of Section 4985 of the Revenue and Taxation Code or refunded under the provisions of Section 5097 of the Revenue and Taxation Code.

There is no statute of limitations for filing a claim late where it involves a cancellation of taxes. As a claim for refund must be filed within four years after making the payment, the filing of the late claim must be made in sufficient time for review and approval of the claim, and for the filing for the refund.

CHAPTER 5: MISCELLANEOUS

LISTING ON THE ROLL

Exempt cemetery property may be listed on the assessment roll in accordance with subdivision (b) of Property Tax Rule 252. If the properties are not enrolled or are shown without values, the assessor should have these values readily available. The value of all cemetery property should be estimated even though portions or all of it may be eligible for exemption.

SPECIAL ASSESSMENT

Section 3(g), Article XIII of the California Constitution provides that cemetery property exempt from property taxation is also exempt from special assessment.

CEMETERY EXEMPTION

CLAIM FOR EXEMPTION FROM PROPERTY TAXES UNDER SECTIONS 204 AND 256.5 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 15.
(Read instructions carefully before preparing affidavit and supporting schedules.)

..... states:
(Name of person making claim)

I He is
(Title, such as President, etc.)

II of the
(Corporate name from articles if incorporated)

III the address of which is
(Give complete address)

IV. that he makes this claim for cemetery exemption on behalf of said organization for the 19 -19
fiscal year (carefully follow instructions for the year to be entered here):

V. that the owner is organized (or operates) for profit: yes no

VI. that the owner was incorporated as a nonprofit corporation on
(if applicable, enter dates of incorporation and amendments)

VII. that to the extent described on the attached statements and documents:
a. the property is used or held exclusively for the burial or other permanent deposit of the human dead or for the care, maintenance, or upkeep of such property or such dead; and
b. the property is not used or held for profit;

VIII. that: (Check only one box unless claim covers both inactive and active cemeteries.)
 exemption is claimed for the following described inactive property which constitutes and issued exclusively as a cemetery, no portion of which is being leased, rented, or held for sale by the claimant (enter to assessor's parcel number or legal description)

IF THIS BOX IS CHECKED AND EXEMPTION IS NOT CLAIMED FOR OTHER PROPERTIES, SECTIONS A AND B NEED NOT BE COMPLETED.

exemption is claimed for the cemetery properties described on the attached property information section(s).

STATE OF CALIFORNIA)
) ss
COUNTY OF _____)

I declare under penalty of perjury that this claim for cemetery exemption, including any accompanying schedules and attachments, 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.

FOR ASSESSOR'S USE ONLY

Received by
(Deputy Assessor)

of
(County or City)

on
(Date)

Number of Section As in claim

PERSON TO CONTACT DURING NORMAL BUSINESS HOURS FOR ADDITIONAL INFORMATION

Name

Address

.....

Telephone Number

SECTION A OF CLAIM FOR CEMETERY EXEMPTION

(Claimants must complete separate copies of this section for each property for which exemption is sought.)

Follow Instructions Carefully

Information for Property No. _____

Name of Organization _____

Address of this property _____ County _____

1. PROPERTY DESCRIPTION

1A. Description: Assessor's parcel number or legal description

1C. Dedication and Zoning:
 Declaration of Dedication
 Recorded: _____
 Declaration of Intention
 Recorded: _____
 Zoning or Cemetery Use Permit
 Granted on _____ 19 _____
 Dedication or zoning not required
 because _____

1B. Area: _____ **Total Acres** _____

2. Owner and operator (Carefully check applicable boxes)
 Claimant is: owner and operator , owner only , operator only of the cemetery and claims exemption on the land , buildings and other improvements , and personal property listed herein. List the name of any organization which owns or operates the property other than the claimant: _____

3A. Leased or rented to others:
 Is any portion of the property described above rented, leased, or being used or operated by some other person or organization? _____ (yes or no). If yes, describe that portion and its use, and attach a copy of the lease (rental) agreement. _____
 _____ To your knowledge, are any plots, niches, or crypts within the property being held for profit by others? _____ (yes or no)

3B. Is any equipment or other property at this location being leased, rented, or consigned from someone else? _____ (yes or no). If yes, so state and attach a list that includes the name and address of the owner and the quantity and description of the property. Property so listed is not subject to the exemption and will be assessed by the assessor if owned by a taxable entity.

4. LAND USE

4A. Cemetery and related uses:
 _____ acres – burial sites in use or offered for sale _____ acres – mausoleum and columbarium sites
 _____ acres – walkways and garden areas _____ acres – used for other building sites
 _____ acres – developed roads and parking areas _____ acres – all other cemetery uses

4B Noncemetery uses (show all uses of the property not listed in 4A):
 _____ acres – used for other purposes – _____
 _____ acres – not developed (unused) _____ Total acres of parcel

NOTE: Total of 4A and 4B must equal total area reported in 1B.

5. Buildings and Improvements Building No. or Name	5A. Principle Use	5B. Other Use or Uses:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Personal Property Description	6A. Principle Use	6B. Other Use or Uses:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

SBE-ASD AH 265A 9-14-72 (REVISED 9-13-74)

SECTION B OF CLAIM FOR CEMETERY EXEMPTION

(This section must be completed by profit-making organizations.
Nonprofit claimants need not answer the following questions.)

Inventory of Unsold Burial Sites and Crypts

READ INSTRUCTIONS CAREFULLY

7. Cemetery Plots:	TOTAL ACRES	ACRES SOLD	UNSOLD INVENTORY
7A. Developed burial sites
7B. Offered for pre-need sales only

8. Crypts and Niches:

(Do not include preconstruction sales of crypts or niches if construction had not commenced prior to the lien date.)

8A. Mausoleums	TOTAL NUMBER	NUMBER SOLD	UNSOLD INVENTORY
Indoor Crypts
Outdoor Crypts
Niches
8B. Columbariums			
Niches

SECTION B OF CLAIM FOR CEMETERY EXEMPTION

Alternate Question 8

8. Crypts and Niches:

(Do not include preconstruction sales of crypts or niches if construction had not commenced prior to the lien date.)

8A. Mausoleums	TOTAL CU. FEET	CU. FEET SOLD	UNSOLD INVENTORY
Indoor Crypts
Outdoor Crypts
Niches
8B. Columbariums			
Niches

Instructions For Alternate Question 8

Line 8 In lines 8A and 8B show: (1) the total cubic feet of crypts or niches, (2) the cubic feet sold, and (3) the inventory on hand (cubic feet unsold). Do not report preconstruction sales if construction had not commenced prior to the lien date.

INSTRUCTIONS FOR FILING CLAIM FOR PROPERTY TAX EXEMPTION UNDER THE CEMETERY EXEMPTION PROVISIONS

FILING OF CLAIM

Claims for the cemetery exemption must be signed and filed with the county assessor concerned. If there is a separate city assessor, a duplicate copy of the claim must also be filed with such city assessor.

An officer or duly authorized representative of the organization owning the property must sign the claim.

The assessor will supply claim forms. Additional Sections A and B or complete sets will be mailed upon request. A copy of the claim should be retained by the organization. It is recommended that the retained copy be submitted to the assessor for acknowledgment of filing by entry of the date and the assessor's or the deputy's signature. This copy will serve as a record of filing should there be any later question relative thereto.

Time For Filing

To receive the full exemption, the claimant must file his claim each year on or before March 15. Only 90 percent of any tax or penalty or interest thereon may be canceled or refunded when a claim is filed between March 15 of the current year and March 1 of the following calendar year; if the application is filed thereafter, only 85 percent of any tax or penalty or interest thereon may be canceled or refunded. In no case, however, is the tax, penalty, and interest for a given year to exceed \$250.

PREPARATION OF CLAIM

All claimants must execute the claim and, except where exemption is being claimed for inactive cemetery property, provide the property information requested in Section A. Only claimants organized for profit need complete Section B. All questions must be answered. Failure to answer all questions may result in denial of your claim. Leave no blanks; use "no," "none," or "not applicable" where needed.

If the entire property is not qualified, a partial exemption will be granted for any portion which satisfies the requirements.

Line IV, Fiscal Year

The fiscal year for which exemption is sought must be entered correctly. The proper fiscal year follows the lien date (12:01 a.m., March 1) as of which the taxable or exempt status of the property is determined. For example, a person filing a timely claim in March 1975 would enter "1975-76" on line four of the claim; a "1974-75" entry on a claim filed in March 1975 would signify that a late claim was being filed for the preceding fiscal year.

Lines V and VI

Check the appropriate box to indicate whether or not the owner is organized or operates for profit. If organized as a nonprofit corporation, enter the date(s) of incorporation and any amendments of the articles of incorporation on Line VI.

A nonprofit organization filing for the first time must attach a certified copy of the Articles of Incorporation or comparable instrument for unincorporated organizations, together with all amendments and revisions thereto. After the first filing, only subsequent amendments or revisions to the articles or comparable instrument need be submitted with each claim. Approval of your claim for cemetery exemption cannot be given if proper documents are not on file in the assessor's office.

Line VIII

Check the appropriate box and enter the assessor's parcel number or legal description when required. If necessary, use the back of the claim for lengthy legal descriptions or attach an additional sheet. This completes the claim for organizations claiming only total exemption of an inactive cemetery property, no portion of which is being leased, rented, or held for sale by the claimant. Claims for all other properties must include Section A.

SECTION A INFORMATION CONCERNING THE PROPERTY

Except as indicated in the preceding paragraph, Section A is to be completed by profit-making and nonprofit cemetery organizations alike. A separate Section A must be completed and filed for each property for which total or partial exemption is sought. The information furnished must be restricted to the particular property. Give the exact name of the organization, address of the property, and the county of location.

The term property as used here means any operating unit of property consisting of one parcel or several contiguous parcels for which exemption is sought even though there may be several improvements and separate buildings thereon. All personal property for which exemption is sought should be listed. If more than one Section A is filed, each Section A should be numbered for convenient reference.

- Line 1** List each parcel on which a portion of the operating cemetery is located. Enter the assessor's parcel number(s) or legal description(s) in Line 1A. Use additional sheets if necessary. Line 1B: Indicate the total area (in acres) of all parcels shown in Line 1A. Line 1C: If the owner has recorded a "Declaration of Intention" or "Declaration of Dedication" of the property for which the exemption is claimed, or if cemetery zoning or a special use permit was granted for the property, check the appropriate box(es) and enter the corresponding date(s) or recorder's reference(s). If dedication and zoning are not required, check the corresponding box and explain.
- Line 2** Check the appropriate boxes to identify the owner and operator of the property and the classifications of property for which total or partial exemption is sought. If an organization or individual other than the claimant owns or operates the property, identify the organization or individual in the space provided.
- Line 3A** If any portion of the property is rented, leased, or being used or operated by some other person or organization, copies of leases or agreements must be submitted. If the leases or other agreements have been filed in prior years, it is only necessary to attach copies of subsequent extensions, modifications, and changes.
- Line 3B** If the answer is yes, attach a list that includes the name and address of the owner and the quantity and description of the property.
- Line 4** Designate the exact acreage for each use. Report one combined figure for all building sites, other mausoleums and columbariums, which must be shown separately. Report appurtenant walkways, gardens, and parking lots separately. Line 4B: Show all other uses of the property not listed in 4A and the acreages devoted to such uses (e.g., 20 acres – orange grove). The total of the acreages reported in Lines 4A and 4B must equal the total acres shown in Line 1B.
- Line 5** List all buildings and other improvements on the land, such as mausoleums, columbariums, chapels, corporation yard improvements, irrigation systems, mortuaries, and crematoriums. (Do not include landscaping.) List separately any improvements used partially for exempt purposes and partially for taxable purposes. Use additional sheets if necessary. Column 5A: List the principal use of each. Column 5B: List all other uses of specific buildings and improvements. Enter "none" if there is no other use.
- Line 6** List all personal property for which exemption is sought. Group items into broad categories such as cemetery maintenance tools and equipment, grave digging equipment, and office furniture. List separately any personal property used partially for exempt purposes and partially for taxable purposes. Column 6A: Indicate the principal use of the property (e.g., maintaining cemetery grounds). Column 6B: List any other uses (e.g., farming). Enter "none" if there is no other use. Personal property leased to you should be listed in the answer to Line 3B.

SECTION B INVENTORY OF UNSOLD BURIAL SITES AND CRYPTS

Section B must be completed by all profit-making organizations (any claimant answering yes to question V) seeking the cemetery exemption. List the owner's inventory of unsold burial sites and crypts as of 12:01 a.m., March 1. Include those acquired by the owner through trades or defaulted contracts as unsold.

Line 7 Report cemetery plots in terms of acreage devoted to such use. Land developed as burial sites which are either in use or being offered for both at-need and pre-need sales is to be reported separately from land designated and offered only for pre-need sales. Show (1) the total acreage, (2) the acreage sold, and (3) the unsold acreage for each category. In Line 7A report "developed" plots located in operating units of the cemetery in which burial activity takes place. Limit acreage shown in Line 7B to plots in operating units of the cemetery which remain in an undeveloped or semi-developed state and in which no burial activity takes place. The total of the acreage reported in 7A and 7B should equal the total acreage on the first entry under Line 4A.

Line 8 In Lines 8A and 8B show (1) the total number of crypts or niches, (2) the number sold, and (3) the inventory on hand. Do not report pre-construction sales if construction had not commenced prior to the lien date.

ADDITIONAL INFORMATION

Upon request, the owner and the operator must furnish additional information to the assessor. The assessor may institute an audit or verification of the operations of the claimant.

CHECK YOUR ANSWERS!! LEAVE NO BLANKS!!

BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT

PROPERTY TAX RULES AND REGULATIONS

Chapter 1. State Board of Equalization – Property Tax
Subchapter 2. Assessment
Article 3. Exemptions and Immunities

Reference: Section 601 and Article 2, Chapter 1, Part 2, Division 1, Revenue and Taxation Code

Rule No. 132. (Cal. Adm. Code) Cemetery Exemption

(a) SCOPE OF EXEMPTION. Upon timely application on the prescribed form, the cemetery exemption is available on property used or held exclusively for the burial or other permanent deposit of the human dead and property used or held exclusively for the care, maintenance or upkeep of such property or such dead, except any such property that is used or held for profit.

(b) MEANING OF “PROPERTY USED OR HELD EXCLUSIVELY FOR BURIAL.” In this regulation, “property used or held exclusively for burial” means (1) property in actual use or prepared, made available, sold or offered for sale or use for burial or other permanent deposit of the human dead; (2) property whose use is incidental to such burial purposes, as described in paragraph (c); and (3) passively held property that qualified for exemption under paragraph (d).

(c) INCIDENTAL USE OF PROPERTY. Property of an established cemetery which is held exclusively for burial purposes may be planted, landscaped, arborized or maintained if such planting, landscaping, arborizing or maintenance is incidental to the burial purpose, does not produce gross receipts for the claimant, and is for the purpose of embellishing adjacent cemetery property, preserving the appearance of the property and the surrounding area, preventing soil erosion or similar purposes.

(d) PASSIVE HOLDING OF PROPERTY. Passive holding of large sections of land for future cemetery use by an established cemetery is a basis for exemption only if:

- (1) The property is held in good faith and exclusively for burial purposes;
- (2) The property is dedicated for cemetery use pursuant to statute or otherwise;
- (3) The property is qualified for use as a cemetery under zoning laws if applicable; and
- (4) The size of the tract being held is reasonable upon the basis of population and mortality trends and tables for the area, the volume of burial conducted and anticipated by the cemetery organization holding the property, the likelihood of the cemetery organization continuing burial activities in the area during the period of anticipated use for burial purposes, and similar factors.

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ISSUED
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Rule No. 132. Cemetery Exemption (Continued)

(e) NONEXEMPT PROPERTY OF PROFIT-MAKING CEMETERY ORGANIZATIONS. In addition to property described in paragraphs (f) and (g), burial plots, niches or crypts held for sale by profit-making cemetery organizations are taxable. Burial plots, niches or crypts within a cemetery which is operated for profit are exempt from taxation once they are disposed of, provided the owners do not hold them for profit.

(f) ROADS, PATHS AND EMBELLISHMENT AREAS. Roads, paths and embellishment areas in a cemetery, and lobbies, hallways and other common areas in a mausoleum or columbarium, the burial property of which is entirely exempt are also entirely exempt. Roads, paths and embellishment areas in a portion of a cemetery that is held by a profit-making organization and is not entirely exempt are exempt in the proportion that the exempt acreage in that portion bears to the total acreage in that portion. Lobbies, hallways and other common areas in a mausoleum or columbarium held by a profit-making organization, together with the mausoleum or columbarium site, are exempt in the proportion that the exempt burial property in the mausoleum or columbarium bears to the total burial property in the mausoleum or columbarium. The proportion that the exempt burial property bears to total burial property in a mausoleum or columbarium may be determined, at the assessor's option, by reference to either the number or the volume of crypts or niches.

(g) NONEXEMPT PROPERTY OF BOTH PROFIT-MAKING AND NONPROFIT CEMETERY ORGANIZATIONS. Property not used or held exclusively for burial or other permanent deposit of the human dead, or for the care, maintenance or upkeep of such property or such dead, such as floral shops, mortuaries, crematoriums, and orchard or cropland which produces gross receipts for the claimant, is not exempt whether owned by a profit-making or a nonprofit cemetery organization.

Adopted February 9, 1967, effective February 14, 1967.

BOARD OF EQUALIZATION
PROPERTY TAX DEPARTMENT

PROPERTY TAX RULES AND REGULATIONS

Chapter 1. State Board of Equalization – Property Tax
Subchapter 2. Assessment
Article 6. Local Roll

References: Sections 109.5, 618, 1612, 1614, 1646, 2152 and 2601, Revenue and Taxation Code

Rule No. 252. (Cal. Adm. Code) Content of Assessment Roll

(a) MINIMUM CONTENTS OF “MACHINE-PREPARED” LOCAL ROLLS.

If “machine-prepared” within the meaning of Revenue and Taxation Code Section 109.5, the local roll prepared by the assessor of each county shall contain at least the following:

- (1) The name of the county.
- (2) Either the calendar year (e.g., 1971) in which the roll is prepared or the fiscal year (e.g. 1971-72) for which the taxes are levied.
- (3) An explanation of abbreviations and legends appearing on the roll.
- (4) At the beginning of the roll or on each page, the ratio of assessed to full value applicable to the roll unless both assessed and full values appear on the roll.
- (5) The parcel number or other legal description of each parcel of taxable land and each parcel for which an exemption is enrolled.
- (6) On the unsecured portion of the roll, a description or designation of the location of each taxable possessory interest, improvement, or personal property sufficient to identify the property, such as the number of the parcel on which located.
- (7) The name of the assessee, if known.
- (8) The latest mailing address of the assessee contained in the assessor's records. If the county auditor prepares a separate roll on which to extend taxes, however, the address need not be shown on the roll prepared by the assessor.
- (9) The separately stated assessed values of all land, improvements, and personal property subject to taxation at general property tax rates (or payments in lieu of property tax computed by applying general property tax rates to fixed or variable “assessed values”), and of any privately owned land, improvements, and personal property of a type that is exempt from taxation, but is subject to ad valorem special assessments when within a district levying such assessments. If real property is situated within a resource conservation district that is levying a special assessment, the assessed value of standing trees, timber, and mineral rights must be separated from the land value.
- (10) The penalties imposed upon such assessments, in the form required by Section 261, Title 18 (Rule 261) of this code.
- (11) The assessed value of any property that escaped assessment in a prior year, together with the notation required by Section 533 of the Revenue and Taxation Code.

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Rule No. 252. (Cal. Adm. Code) Content of Assessment Roll (Continued)

- (12) The exempt amount of any assessed values required by paragraph (a)(9) to be enrolled, with identifying legends or distinctive positions for amounts allowed pursuant to the inventory exemption, the homeowner's exemption, and any other reimbursable exemptions.
- (13) The total net taxable value.
- (14) In a separate section of the unsecured roll, the assessed value of any personal property subject to taxation at a rate which is uniform throughout the state (e.g., general aircraft).
- (15) On the secured roll, a cross-reference notation adjacent to the assessment of any taxable land when a possessory interest in such land or an improvement thereon is separately assessed to another owner pursuant to Section 2188.2 of the Revenue and Taxation Code.

(b) EXEMPT VALUES NOT REQUIRED TO BE ENROLLED.

Parcel numbers or other legal descriptions of other exempt real property may be entered on the roll without values. Alternatively, such exempt real property may be listed with values shown in a separate column (e.g., the remarks column) or in the exemption column on lines that are coded in such manner as to preclude the addition of the values when the exemption column is totaled; the exempt values shall not be shown in land or improvement columns.

(c) MARKET VALUES OF PROPERTY TAXABLE ON OTHER THAN MARKET VALUE BASIS.

Neither the market value of property taxable on a basis other than market value (e.g., open-space lands and nonprofit golf courses) nor 25 percent of such market value shall appear in the full value, assessed value, or exemption columns of the assessment roll. The differences between 25 percent of market values and the assessed values may be shown in a separate column (e.g., the remarks column) or in the exemption column on lines that are coded in such manner as to preclude the addition of the values when the exemption column is totaled; the differences shall not be shown in land or improvement columns.

(d) CONTENT OF EXTENDED ROLL.

The extended assessment roll prepared by the county auditor shall contain, in addition to all of the contents required by paragraph (a) preceding, at least the following:

- (1) The address, if known, of the assessee.
- (2) The tax-rate area number for each group if assessments are grouped by tax-rate area, and for each assessment if assessments are not so grouped.
- (3) All tax and ad valorem special assessment extensions required by law.
- (4) At the beginning of the roll, or at the beginning of each tax-rate area grouping on the roll, a list of all revenue districts levying taxes within each tax-rate area in the county.
- (5) An identification of each tax-sold property as such, with the date of sale.

(e) MINIMUM CONTENTS OF LOCAL ROLLS NOT "MACHINE-PREPARED".

- (1) The local roll of each county utilizing a roll that is not "machine-prepared" within the meaning of Revenue and Taxation Code Section 109.5 shall have the contents specified in subdivisions (a) and (d) of this section.
- (2) The secured assessments shall be arranged in ascending parcel number order within tax-rate area groupings, with unparcelled properties at the end of each tax-rate area group if there are both parcelled and unparcelled properties in the tax-rate area.

(f) APPROVAL OF ROLL FORMS.

- (1) Whenever the local assessment roll is to be prepared in a form other than that previously approved by the board, the assessor, and in the case of a machine prepared extended roll, the auditor, shall submit to the board for approval in duplicate by March 1 the forms to be used for the succeeding fiscal year.
- (2) Forms to be submitted include but are not necessarily limited to the following:
 - a. Secured roll prepared by the assessor.
 - b. Secured roll alphabetical index.
 - c. Unsecured roll prepared by the assessor.
 - d. Unsecured roll alphabetical index.
- (3) When submitted for approval, each roll form listed in (2) shall be filled out with examples sufficient to illustrate its completed appearance, except that totals and summaries need not be shown.

History: Adopted September 1, 1967, effective October 7, 1967.
Amended November 20, 1968, effective November 21, 1968.
Amended July 8, 1971, effective August 19, 1971.
Amended July 31, 1973, effective September 6, 1973.
Amended February 5, 1975, effective March 20, 1975.

Rule No. 253. (Cal. Adm. Code) Machine-Prepared Roll; Controls

In any county utilizing a machine-prepared roll whose county auditor prepares a new local assessment roll on which to extend taxes, the following controls shall be maintained:

- (a) Columnar totals for land, improvements and personal property, the columnar total of allowable exemptions, with separate subtotals for the inventory and homeowner's exemption, and the columnar total of the net assessed value shall be computed and made a part of both the unextended roll and the extended roll.
- (b) A tabulation showing the totals of the net assessed values and the tax extensions for each tax area shall be prepared and made a separate portion of the extended roll.
- (c) A tabulation of any changes made by the county board of equalization, together with a reconciliation of the totals to the totals of the original assessment roll, shall be added to and made a part of the extended assessment roll each month. The tabulation shall show the roll column totals as of the beginning of the month, each change during the month, including penalties, and the roll column totals as of the end of the month.
- (b) The extended assessment roll shall incorporate all changes and orders made by the county board and all changes, cancellations, or corrections made pursuant to law. The nature and amount of the changes, cancellations, or corrections shall be kept as a separate part of the roll.

Adopted September 1, 1967, effective October 7, 1967.
Amended November 20, 1968, effective November 21, 1968.

Rule No. 254. (Cal. Adm. Code) Use of Board-Prepared Roll as Unextended Roll

Any county utilizing a machine-prepared roll whose county auditor prepares a new assessment roll on which to extend taxes may use the roll prepared by the state board for state-assessed properties as the unextended assessment roll. In such case, the assessments of state-assessed properties shall be kept in a separate volume or volumes of the extended roll, and the values shall be separately totaled.

Prior to delivery of the extended roll to the tax collector, the auditor shall affix to the volume or volumes of the extended roll containing state-assessed property an affidavit subscribed by him as follows:

"I, _____, Auditor of _____ County, swear that the attached roll is a reproduction of the assessments of state-assessed properties in this county as prepared and corrected by the State Board of Equalization, together with the extensions required by law."

Adopted September 1, 1967, effective October 7, 1967.

Rule No. 255. (Cal. Adm. Code) Reflecting Intercounty Equalization Orders on Roll

In the event of an equalization order by the board, the extended local secured assessment roll shall show values after such equalization. On an explanation sheet in the front of each volume of such roll shall be entered the following statement:

"All figures entered in the value columns headed 'Land,' 'Improvements,' 'Personal Property' and 'Net Value' of this roll reflect (an increase) (a decrease) of _____ % made pursuant to an order issued by the State Board of Equalization under date of _____, 19____."

Adopted September 1, 1967, effective October 7, 1967.

Rule No. 256. (Cal Adm. Code) Tape Storage of Roll Data

Nothing in Sections 252 to 255, inclusive, is meant to alter the intent of Section 109.6 of the Revenue and Taxation Code.

Adopted September 1, 1967, effective October 7, 1967.
Amended November 20, 1968, effective November 21, 1968.

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