

LESSOR'S EXEMPTION

Applicability. A lessor's exemption claim should only be filed when the lease has been adjusted for taxes and the public entity has already received the benefit of the reduction. The exemption claim filed by the public entity (free libraries or museums, public schools, community colleges, state colleges, state universities, or nonprofit institutions of higher education) should list all equipment as to the status, i.e., rental-reduced or no reduction. This will assist in verifying the lessor's claim.

Upon enrollment, only the rental-reduced equipment will be exempted. For equipment listed as no reduction, taxes will be billed and, when paid will only be refunded to the public entity upon submission of a claim for refund. 8/30/79.

August 30, 1979

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Equipment Leases Entered into by
Nonprofit Institutions of Higher Education

This is in reply to your letter of August 17, 1979, to Mr. William Grommet of our Assessment Standards Division. I am enclosing a copy of our letter to County Assessors, No. 79/13 of January 18, 1979, for your further understanding of our interpretation of Revenue and Taxation Code, section 202.2.

Our responses to your questions follow in like order:

(1) Amendment of pre-September 20, 1978, leases would not qualify. Section 5 of Chapter 936, Statutes 1978, requires that the leases and contracts be entered into on and after the effective date. A simple reexecution of an existing lease would, however, satisfy this requirement.

(2) Yes, it would be preferable to identify the exempt equipment on the annual claim for college exemption. In fact, assessors will be asking colleges to list the equipment on the claim as to status, i.e., rental-reduced or no-reduction. This will provide a check and facilitate the work of the auditor and tax collector when a section 5096 claim is later filed. Please refer to the claim contents of section 5097.02.

(3) No, the claim for college exemption and the claim for refund should both be filed on any Equipment on which no rental reduction was granted. However, if the claimant does not specify the equipment on the college claim, the full amount may still be recovered on the 5096 claim provided the equipment and the amount of tax thereon is specified and the claimant further affirms that it was exclusively used for the exempt purpose at the time in question.

(4) Under section 202.2 a lessor's exemption claim should only be filed when the lease has been adjusted for taxes so that the exempt institution has already received the benefit. The college claim with the equipment listed as rental-reduced will verify this and result in the equipment being enrolled but then exempted with no tax bill to the lessor. If the equipment is listed as no reduction, then refund will only be granted to the exempt organization upon submission of a 5096 claim.

Hopefully, these responses should clarify our tentative procedure. As time progressed we will probably make adjustments as experience dictates. In any event, the exempt organization has a four year statute of limitations under section 5097 to claim the benefit.

August 30, 1979

Very Truly Yours,

James M. Williams
Tax Counsel

JMW:fr
Enclosure

cc: Mr. Sheldon Paris

bc: Mr. William Grommet
Legal Section