

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

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

Rule 132. Cemetery Exemption.

Authority: Section 15606, Government Code.

Reference: Sections 204, 251, 254, 255, 256.5, 260, 270 and 271, Revenue and Taxation Code.

(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 qualifies 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.

(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.

Rule 132 (Contd.)

(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.

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