



# Claim for Property Tax Refund

Lafayette Christian Church

Presented by Beth Grose,  
Principal Appraiser, Contra  
Costa County Assessor's  
Office



## Assessor's Office

- Reviews thousands of exclusion applications annually
- Past year over 1,000 religious institutions, including churches qualified
- Many of those had parsonages or similar living structures that also qualified for the exclusion

# Welfare Exemption

“Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated . . . for religious, hospital, scientific, or charitable purposes is exempt from taxation . . . .” Revenue & Taxation Code, § 214(a).

## Actual Use Required

“The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.”  
Revenue & Taxation Code, § 214(a)(3).

# Timeline

- 1/28/13 - LCC gifted property with residence
- 2/15/13 – LCC timely files for exemption based on religious use as parsonage within 90 days of acquisition
- 6/15/13 (approx.) - Assessor's Office grants exemption for 2013, effective 1/28/13
- 10/13-9/14 –Residence vacant
- 3/24/14 – LCC late files for exemption of residence based on religious use
- 6/17/14 - Assessor's Office denies exemption as to residence, grants majority of exemption as to property where Church located

## Initial Reason Provided for Exemption

LCC's request for exemption stated that the residence on the property was intended for future use as a parsonage.

## Reasons for Denial

Law requires exempt use of property on lien date to qualify for exemption (Rev. & Tax. Code, § 214).

- Residence vacant on lien date
- No anticipated occupancy date

## Later Reasons Provided for Exemption

- furniture and appliance storage
- furniture repair
- one meeting with applicant for Regional Minister
- one-time use of washer/dryer
- one pastoral search committee meeting
- two finance committee meetings
- one choir practice



## Later Reasons Provided for Exemption (part II)

- meetings to discuss maintenance of residence
- cleaning and yard work
- continuation of utilities
- recruitment tool

# Bases for Decision

- Welfare Claim  
Submitted by LCC
- Conversations with  
LCC (primarily  
10/13 - 12/13)
- Statutes
- Case law
- SBE Assessor's  
Handbooks
- SBE Letters to Assessors
- Conversations with  
State Board of  
Equalization
- Other county  
assessors' offices

## Statutory Requirement of Actual Use

“The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.”  
Revenue & Taxation Code, § 214(a)(3).

STATE OF CALIFORNIA

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No. 87/28

March 20, 1987

To: County Assessors, County Counsels,  
 County Boards of Supervisors, and  
 Other Interested Parties

**PUBLIC DISCUSSION OF THE EXEMPTION OF  
 CHURCH AND SCHOOL RESIDENTIAL HOUSING FACILITIES**  
April 21, 1987

The California State Board of Equalization, in conjunction with the county assessors, administers an exemption from the property tax known as the welfare exemption. The welfare exemption is granted to various nonprofit organizations for certain residential housing facilities that meet criteria developed under current law, judicial decisions and Board interpretation, and are owned and operated by the exempt organization.

Housing facilities of private boarding schools of less than collegiate grade that have been found by the Board to qualify for the welfare exemption include specific living units that are considered institutionally necessary, such as those occupied by boys/girls deans, supervisors, headmasters and security and custodial personnel. Living units excluded from exemption include those occupied by cooks, gardeners, librarians, and teachers.

Generally speaking, housing owned by a church and occupied by its members is not exempt to the extent used for private residential purposes. Certain properties of this type are found to be exempt because they are indispensable to a particular type of religious activity, such as monasteries and convents.

Persons interested in the exemption of residential housing facilities owned by private boarding schools and religious organizations are invited to participate in a public discussion to be held by the California State Board of Equalization for the purpose of taking general testimony regarding the standards

# Taxpayer Has Burden to Show Exemption Applies

"Tax exemptions are construed strictly against the taxpayer. A private owner of property has the burden of showing it clearly comes within the [property tax] exemption."

Amdahl Corp. v. County of Santa Clara (2004) 116 Cal. App. 4th 604, 614 (internal citations and quotations omitted).

ASSESSORS' HANDBOOK  
SECTION 267

WELFARE, CHURCH, AND RELIGIOUS  
EXEMPTIONS

OCTOBER 2004

REPRINTED JANUARY 2015

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### **EXCLUSIVE USE OF PROPERTY MUST OCCUR ON LIEN DATE**

Property must be used exclusively for religious, hospital, or charitable purposes and be in such use on the January 1 lien date. The exemption would generally be inapplicable to an unused vacant lot, to an unused building, and to an unused portion of a building.<sup>96</sup> A limited exception

In reviewing and completing section B, the county assessor should consider the following items:

- **Primary Activity.** The assessor should indicate the primary use of the property by checking the appropriate box.
- **Other Activities.** The assessor should list and carefully explain other activities and uses occurring on the property, e.g., commercial leases.
- **All or Partial Uses.** In addition to indicating the primary and other activities of the organization conducted on the property, the assessor should identify any property or portion of the property that is leased or rented, vacant or unused, or in excess of that reasonably necessary to conduct the organization's exempt activities, or used to house personnel whose presence is not institutionally necessary.



# Property Tax Exemptions for Religious Organizations

## Church Exemption, Religious Exemption, and Religious Aspect of the Welfare Exemption

PUBLICATION 48 • LDA | APRIL 2011

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## Property Tax Exemptions for Religious Organizations, State Board of Equalization (2011), p. 12.

### Vacant, unused, or excess property

Property that is vacant, unused, or excess on the January 1 property tax lien date is not eligible for exemption for the following reasons:

- Revenue and Taxation Code section 206 requires exclusive use of property for *religious worship purposes*.
- Revenue and Taxation Code section 207 requires exclusive use of property for *religious worship and school activities*.
- Revenue and Taxation Code section 214, subdivision (a) requires *exclusive use of property for the organization's exempt purpose*. Section 214, subdivision (a)(3) requires *use of the property for the actual operation of an exempt activity*.

The intent to use the property at a later date does not make the property eligible. The assessor cannot allow an exemption until the January 1 lien date after a qualifying use begins.

In this context, "excess property" is property in excess of what your organization reasonably needs or is using for your exempt purposes and activities.

## Case re Intended Use of Property for Exempt Purpose

Question considered by California Supreme Court:

Was taxpayer's intention to use buildings for exempt purpose sufficient to exempt the property from property taxation?

Cedars of Lebanon Hospital v. County of Los Angeles (1950) 35 Cal.2d 729, 742-743.

# Decision

No. Welfare exemption has “express limitation, making use the focal point of consideration, contemplates actual use as differentiated from an intention to use the property in a designated manner.”

Cedars of Lebanon Hospital v. County of Los Angeles (1950) 35 Cal.2d 729, 742-743.

## Reasons Provided Are Not Exempt Uses

- ~~furniture and appliance storage~~ – furniture listed is all appropriate to residence, not storage of religious materials used for worship
- furniture repair
- one meeting with applicant for Regional Minister
- one-time use of washer/dryer
- one pastoral search committee meeting
- two finance committee meetings
- one choir practice

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# Reasons Provided Are Not Exempt Uses

- ~~furniture and appliance storage~~ – furniture listed is all appropriate to residence, not storage of religious materials used for worship
- ~~furniture repair~~ – incidental use
- ~~one meeting with applicant for Regional Minister~~ – incidental use
- ~~one time use of washer/dryer~~ – incidental use
- ~~one pastoral search committee meeting~~ – incidental use
- ~~two finance committee meetings~~ – incidental use
- ~~one choir practice~~ – incidental use

# Reasons Provided Are Not Exempt Uses

- ~~meetings to discuss maintenance of residence~~ – incidental use and property maintenance
- ~~cleaning and yard work~~ – property maintenance
- ~~continuation of utilities~~ – property maintenance
- ~~recruitment tool~~ – not an exempt use and further evidence property was not being used for other purposes but, rather, held for future occupancy

## If claim denied,

- Generally taxpayers have recourse to the courts by filing a complaint for property tax refund. (Rev. & Tax. Code, §5140).
- Court determines whether claim properly denied.