

(916) 445-8485

February 28, 1980

Dear Redacted:

This is in response to your February 8, 1980, letter to Mr. William Grommet concerning the applicability of Revenue and Taxation Code Section 206.1 to the following situation:

“A Church in Redlands is sited on a corner parcel. The church building is adjacent to the streets and their parking lot (owned by the church) is located adjacent to and south of the church building. Just south and adjacent to the parking lot are a commercial pharmacy and a suite of doctors’ offices. The parking lot is used by the church on Sundays and on other occasions as required and it is used almost exclusively on other days by patrons of the pharmacy and doctors’ offices. Apparently, the arrangement between the church and the pharmacy/doctors calls for the latter to maintain the parking lot.”

Following the 1974 revision of Article XIII of the Constitution, Revenue and Taxation. Section 206.1 was amended to delete the exclusive-use and no-income-or-profit tests, substituting for the latter language denying the church parking area exemption when real property is used at other times for any commercial purposes. “Commercial purposes”, as used in the section, does not include the parking of vehicles or bicycles costs of operating and maintaining the property for parking purposes.

Review of our AB 817/Stats. 1975, Ch. 128 bill file disclosed that the following was included in Legislative Revenue and Taxation Committees’ bill analyses:

“This bill could mean a savings or revenue source to local government agencies in that if the public is permitted to use church parking lots, (a) the need for those agencies to expend public money in acquiring, constructing and maintaining public parking lots would to that extent be reduced, and (b) private property that might otherwise have to be acquired for public parking will remain on the tax rolls.”

Also included in the bill analyses is a statement to the effect that since church parking lots are exempt under existing law, the bill does not expand the exemption, but only expands the use which may be made of such lots without loss of the exemption.

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Given the language of Section 206.1, as amended, and the above-mentioned inclusions in the bill analyses, we believe that "commercial purposes" does not include the parking of vehicles or bicycles on church parking lots, regardless of the manner in which the parking is administered, so long as the revenue derived therefrom does not exceed the cost of operating and maintaining the property for parking purposes. Assuming that patrons of the pharmacy/doctors may and do park anywhere on the parking lot, and assuming confirmation of the arrangement between the church and the pharmacy/doctors, that it calls for the latter just to maintain the parking lot, the exemption should be applicable: The only revenue derived does not exceed the cost of maintaining the property for parking purposes.

Although the above is inconsistent with the "exclusive use" concept usually applicable to church properties, as indicated, the concept was eliminated with respect to church parking lots by the 1975 amendment to Section 206.1

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

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