



STATE BOARD OF EQUALIZATION

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State Controller, Sacramento

JAMES E. SPEED
Executive Director

January 31, 2001

Re:

Dear Mr. _____,

Your letter to Barbara Edginton of the San Luis Obispo County Assessor's Office, dated November 29, 2000, was referred to the Legal Division of the State Board of Equalization for an opinion on the "propriety and necessity of requiring _____ (GBC) to obtain a welfare exemption" from property taxation on its church property. Because you believe that the activities engaged in on GBC property by outside organizations constitute use "exclusively for religious purposes," consistent with the requirements of Revenue and Taxation Code Section 207, you argue that GBC should qualify for the religious exemption. We respectfully disagree with your analysis and, based on the facts as we understand them, conclude that filings for the welfare exemption are required if GBC's property is to be exempt from the property tax.

Facts

Since building its church in 1992, GBC has qualified for 100% exemption on its property under the religious exemption of Section 207. A Property Use Report, filed on February 15, 2000 indicated that 23 outside organizations and individuals, ranging from churches, to homeschool organizations, to homeowners' associations, singles groups and piano teachers used the property during 1999. Most of the uses were for occasional or weekly meetings or occasional fundraisers, and at least two of the non-church organizations are no longer meeting on GBC property. Two organizations -- _____ School and the First Jurisdiction -- are noted to have used the property more frequently than once per week. _____ School used the gym for student athletic practice and the First Jurisdiction conducted a six week long Sunday School Conference on the property.

Analysis

In arguing that the religious exemption was applicable to church property used by outside organizations and individuals, you cited to the case of Peninsula Covenant Church v. County of San Mateo (1979) 94 Cal. App. 382. Initially, we note that the Peninsula Covenant case involves the application of the *welfare exemption*, and that it was decided two years before the religious exemption statute, Section 207, was enacted. Thus, the case is not strictly on point, and your analysis of the holding in that case with respect to the term “exclusively religious” does not apply to the religious exemption. It is our view that the term “exclusively for religious purposes” with reference to the religious exemption is clearly defined in Section 207, and its application is limited to properties used for religious worship and church school purposes only.¹

We believe our view is clearly supported by the statement of legislative intent included in Section 1 of the bill which enacted Section 207 in 1982 (copy attached) it is also supported by the legislative history as represented in the attached copy of an analysis of the Assembly Revenue and Taxation Committee and a letter from the Board of Equalization's Executive Secretary to the Governor.

Reference to these documents of legislative intent and history illustrate that Section 207 grew out of a concern that churches which operated church schools on their property had to annually file two separate exemption claims: a claim for the church exemption for the church, and a welfare exemption claim for the school. This dual filing was necessary because the church exemption is very narrowly limited in its application to property used “exclusively for religious worship.”² Since the curriculum of schools included courses of study other than religious worship, the exemption of religious schools came under the welfare exemption.³

To eliminate this dual filing requirement, the Legislature created the “religious exemption” which was intended to apply only to the situation where the church and the church school were on the same property. In our view, the religious exemption does not apply to other fact situations, such as the use of your church property by other organizations.

Because most all of the 23 outside organizations and individuals using GBC's property in 1999 were using it for purposes other than those listed in Section 207, the religious exemption is not available to exempt GBC's property for the 2000-2001 tax year. Filings for the welfare exemption are required if the property is to be exempt from property tax.

¹ “Property owned and operated by a church and used for religious worship, preschool purposes, nursery school purposes, kindergarten purposes, school purposes of less than collegiate grade, or for purposes of both schools of collegiate grade and schools less than collegiate grade but excluding property used solely for purposes of schools of collegiate grade, shall be deemed to be used exclusively for religious purposes under this section.”

² Article XIII, Section 3, subdivision (f), California Constitution; Revenue and Taxation Code Section 206.

³ Article XIII, Section 4, subdivision (b) of the California Constitution; Revenue and Taxation Code Section 214, et seq.

If you have any further questions on this matter, feel free to call me at (916) 327-2455.

Sincerely,

/s/ Susan Scott

Susan Scott
Tax Counsel

JKM:lg

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Attachments [Chapter 542, Stats. 1981 (AB 81); AB 81 Assembly Bill Analysis dated 4/8/81;
BOE letter dated 9/11/81(by Douglas Bell)]

Cc: Mr. Richard Johnson, MIC:63
Mr. David Gau, MIC: 64
Ms. Hadley Alger
Ms. Lois Adams
Mr. Larry Augusta
Ms. Jennifer Willis, MIC:70