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December 27, 1984

Ken McManigal

Welfare Exemption - Ownership Requirement

Re the December 11, 1984, letter, (Redacted) Exemption and Mapping Division, Los Angeles County, concerning property leased to a qualifying organization, such property remains ineligible for the exemption because it is not owned by the organization, as required by Section 214. See my August 27, 1982, letter to Mr. (Redacted) in this regard, copy to you:

“... the welfare exemption is both an ‘ownership’ and a ‘use’ exemption ...

“... Had the People/Legislature intended, as you suggest, that an operator's use of property, pursuant to a lease, for qualifying purposes should be considered as or equivalent to ownership for purposes of the exemption, there would have been no need for the ownership requirement. Rather, the ‘use’ requirement employed in tba public schools, collage, and church exemptions could have similarly been employed.”

While Section 61 (c)(1) defines change in ownership to include the creation of a leasehold interest in taxable real property for a term of 35 years or more for assessment purposes, as to such leased property or any other leased property, the lessor/owner continues to be the legal owner of such property for ownership purposes. And, as indicated above, ownership is a requirement for exemption.

As to Mr. Goodrich's suggestion that “this issue is worthy of consideration for a legislative clarification”, I point out th.at it is Article XIII, Section 4(b) of the constitution that makes ownership a requirement for the exemption. With that in mind, I am forwarding the letter to Gordon Adelman for response or for his review and advice to you as to a response by you in this regard.

JKM:fr

Attachment

cc: