

State of California

Board of Equalization

MEMORANDUM

880-0710

To: Mr. William Gromet

Date: December 17, 1979

From: Ken McManigal

Subject: Welfare Exemption – Religious Bookstores and Sales of Religious Materials

This is in response to your request that we review the availability of the welfare Exemption to organizations operating religious bookstores and selling religious materials. of concern is the availability of the exemption to the organizations' bookstore properties.

Having reviewed the letters in your Welfare: Books, Tapes, Records Sales file, the February 3, 1976, letter from Knowles to Lance confirms the availability of the exemption to such organizations and serves as a basis for subsequent letters on the subject. In brief, organizations operating religious bookstores and selling religious materials in furtherance of their religious purposes and activities, to strengthen the religious convictions of members and to make converts of nonmembers, are eligible for the exemption, assuming that little or no profit results from the sales. Experiencing an operating surplus, however, will not be disqualifying if such is not the purpose of the sales.

Other letters to this effect are the September 20, 1976, letter from Shedd to Nichols Law Corporation, the October 27, 1976, letter from Milam to Sitkin, and the May 16, 1977, memorandum from Shedd to you.

Conversely, organizations operating religious bookstores and selling religious materials in order to produce revenues are not eligible for the exemption. In this regard, see the February 3, 1976, memorandum from Williams to you and the June 18, 1976, and September 7, 1976, letters from Williams to Detrick. Other letters to this effect are the July 2, 1976, memorandum from Milam to Price, the September 3, 1976, letter from me to Cearnal, the October 27, 1976, letter from Milam to Sitkin, and the July 13, 1979, memorandum from me to Walton.

As you are aware, these results follow from several court decisions, primarily, Cedars of Lebanon Hospital v. County of Los Angeles, 35 Cal. 2d 729, and St. Germain Foundation v. County of Siskiyou, 212 Cal. App. 2d 911, which are referred to in the letters and memoranda. The same considerations are pertinent in instances in which organizations are preparing and producing religious radio and/or television programs or religious tapes for distribution. So long as the distributions are in furtherance of the organizations' religious purposes and activities and are not fund-raising activities, the organization' properties used in the distributions are eligible for the exemption.

Hopefully, this will enable you to review the claims of the 50 or so organizations known to you which are selling religious materials. In the event that you wish to discuss specific organizations and their claims, please let us know.

We are returning your file and your worksheet herewith.

JKM:fr

cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Legal Section

Ken McManigal

Welfare Exemption – Spiritual Counterfeits Project, Inc. Alameda County

This is in response to your request that we review the Project's claim for exemption for the 1979-80 fiscal year in light of the August 3, 1979, letter from its Administrator and in light of the availability of the exemption to organizations operating religious bookstores and selling religious materials. (Please note the November 29, 1979, letter from the Administrator also, and respond thereto.

The availability of the exemption in such instances is the subject of a separate memorandum to you dated this same date. In brief, it is concluded therein that bookstore properties of organizations selling religious materials in furtherance of the religious purposes and activities of organizations selling religious materials to produce revenues are not.

The first question then is whether the Project's purposes and activities are religious. Although more information is, no doubt, available in this regard, the information we now have indicates that the Project's purposes are religious:

1. Per the Project's Articles, its primary purposes are to research the major Spiritual groups active in America and to critique them biblically; to make the information available to Christians through literature, cassette tapes, public speaking and other available channels' and to confront these groups with the different between their beliefs and the gospel of Jesus Christ.
2. The Franchise Tax Board has characterized the Project's purpose religious for purposes of Revenue and Taxation Code Section 23701d.

As to the Project's activities, Section A3 of the claim form indicates that its activities, Section A3 of the claim form indicates that its activities consist of researching various religious groups from a Christian perspective, publishing and distributing literature, maintaining research files and library, and educating Christians and others about current religious trends in Western society.¹ We would regard such activities as religious in nature. While the premise from which the Project proceeds and the manner in which it proceeds are atypical, the Project is attempting to expose and promote Christianity.

¹ Section A3 also indicates that the Project opposes government funding of religious groups masquerading as secular institutions, but no examples are given. Presumably, whatever this might encompass does not run afoul of the Project's Article 11(b) which provides that no substantial part of the Project's activities shall consist of carrying on propaganda, or otherwise attempting to influence legislation. Further inquiry should be made in this regard, however

The next question is whether the Project's sales of leaflets, booklets and tapes are in furtherance of its religious purposes and activities.² Presumably they are, although we apparently haven't seen any of the leaflets, etc. (This is another area for further inquiry.)

Proceeding from the premises that the Project's sales are in furtherance of its religious purposes and activities, the last question is what, if any, profit results from the sales. According to the August 3, 1979, letter, the Project breaks even in its publishing and selling of the Leaflets, etc., and the sales do not do much to support the operation of the Project as a whole. According to the Project's Income Statement for the year ending October 31, 1978, 833, 145.34 was received from sales of literature while expenditures for printing were \$34,344.93 and expenditures for postage we \$20,811.49. Of course, portions of the expenditures are attributable to the newsletters and other responses, so it is unclear just what portions thereof are directly related to sales. (This is another area for further inquiry.)

Finally, according to the August 3, 1979, letter, the sales occur at a location other than that for which the exemption is claimed. (This is another area for further inquiry.) Assuming this to be the case, the Project's sales would not preclude it from receiving the exemption on the property for which the exemption is claimed. Even if the Project made such sales to produce revenues. This also assumes that the sales are in furtherance of the Project's religious purposes and activities, however, and that the Project is not opposing government funding of religious groups in a manner which would preclude it from receiving the exemption at all.

JKM:fr

cc: DAS File
Legal Section

² These sales are in addition to responses to numerous requests for information and to the informational newsletter, all provided free of charge according to the August 3, 1979 letter.