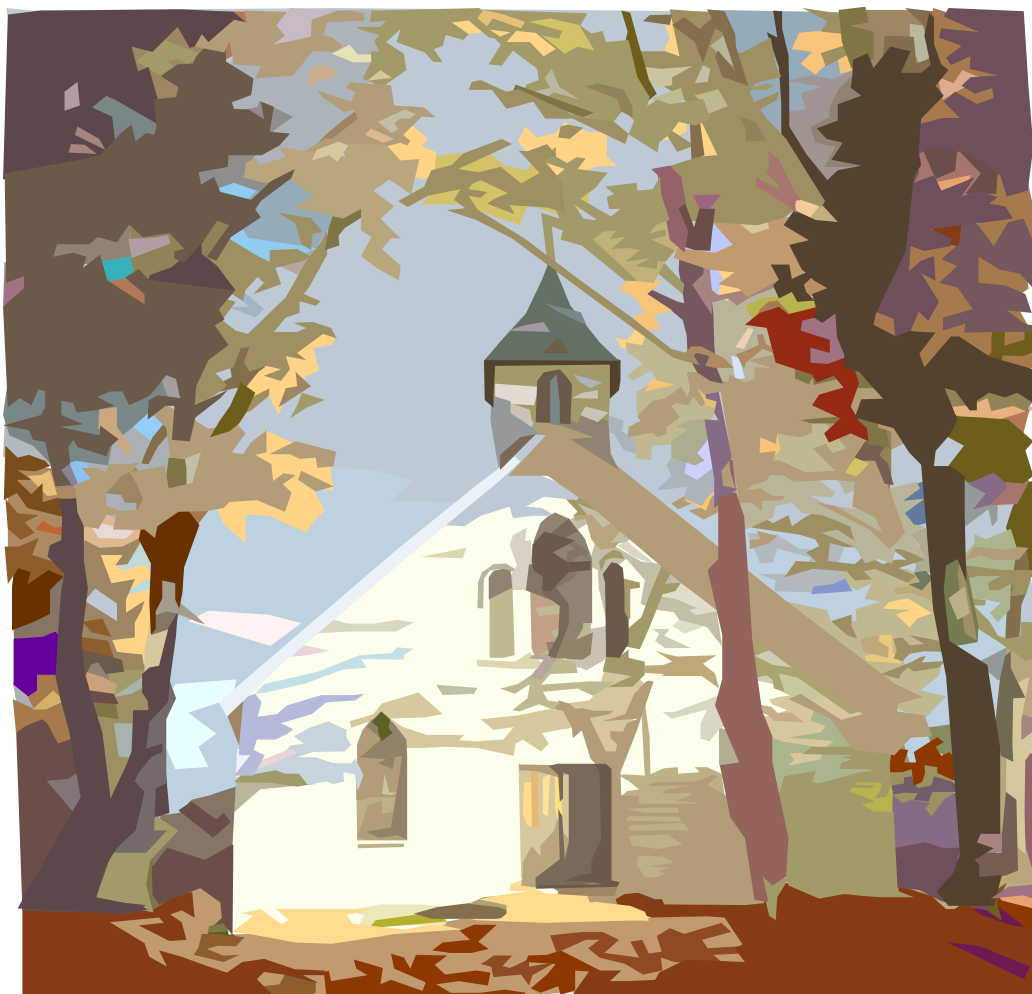


Information Leaflet

**CHURCH PROPERTY AND LOCAL AUTHORITY
RATES**

**A Summary of the Provisions of the
Local Government (Rating) Act 2002**



This leaflet was prepared from information contained in a legal opinion by Dr Royden Somerville QC, commissioned by the Interchurch Working Party on Taxation. The information contained is a general statement of principle as set out in the legal opinion and further information on any specific case should be obtained from the denomination concerned.

Introduction

Church property that is used for religious purposes has historically been exempted from general rates imposed by local authorities. It is important to note that the exemption has been for general rates, not targeted rates, such as water, sewerage or other specific levies, and applies only to property used for religious purposes.

The exemption does not generally extend to dwellings and residential units owned by the churches and occupied by clergy, or property used by the churches for their administrative functions.

Prior to the 2002 Act the rates exemption was stated as being for:

1. Land used and occupied by churches and chapels,
2. Land used for the purposes of a Sunday or Sabbath school at which religious education is given and not used for private pecuniary profit.

Local Government (Rating) Act 2002

This Act came into effect in July 2003 and provides the exemption from general rates for church property in the First Schedule to the Act under section 9, which states:

- Land fully non-rateable
9. Land used solely or principally -
 - (a) as a place of religious worship;
 - (b) for a Sunday or Sabbath school or other form of religious education and not used for private pecuniary profit.

The new wording appears to expand on the earlier exemption as it contemplates uses of church property other than the sole use for religious worship or religious education.

It appears that the test is:

“Is the property principally used for religious worship and religious education i.e. is that the purpose for which the property was purchased or developed and is it used for that purpose on a Sunday?”

If so, the rates exemption applies.

Local authority view

Some local authorities have viewed the new wording in the 2002 Act as requiring them to make assessments or judgement on the relative uses of church property in determining whether or not an exemption is available.

This “balancing of uses” has led some local authorities to conclude that whilst church property may be used on Sundays for religious education or worship, the use particularly of church halls during the week for community activities (including food

banks) is a non-religious educational use and opens the property up to being rated in whole or in part.

The Church's view

It is the Church's view (based on the legal opinion received) and understanding based on the theological imperatives of mission and worship, that the local authorities' view is incorrect.

It is the Church's understanding that if church property was purchased or developed for the purpose of religious worship and/or as a Sunday school or for other forms of religious education on a Sunday, then the property is exempt for general rates.

If a church hall is not used on a Sunday for religious education (Sunday school) but is used during the week for a mix of religious education and community activities, then so long as the religious education activities form at least 50% of the use of the property by time, then the property would be considered non-rateable.

If a church hall is used for Sunday school on a Sunday and not used for any other use during the week, then the property would be considered non-rateable.

The Churches also contend that "religious education" is not limited to classroom studies or teaching by rote but does include providing an exemplar of the Christian Spirit such as the provision of youth group programmes, programmes for the disadvantaged, grief support groups, food banks and activities that transform values, lives and attitude based on the graciousness and love of God. (Comment by Rev Dr Susan Werstein, School of Ministry, Knox College).

Exemption verses relief

The Churches believe that the Local Government (Rating) Act 2002 provides for the exemption from the payment of general rates for qualifying property. That is a statutory provision.

The possible provision of rates relief by a local authority which is being offered by some local authorities as an alternative is purely a discretionary activity by the authority which can continue or be withdrawn by a decision of the local authority. Any church group considering accepting an offer of rates relief as an alternative to rates exemption should carefully consider the ramifications of that decision.

Use of church property for charge or donation

The ability of churches to allow individuals or groups to use their property for a charge or a donation and still retain rates exemption under the previous legislation was often a fraught and uncertain procedure.

The new Act provides that property that otherwise qualifies for exemption does not lose that exemption merely because a charge for use is made or a donation is sought, so long as the proceeds "are not used for private pecuniary profit".

The Act provides:

For the purposes of clauses 3, 9, and 10, land must not be treated as being used for private pecuniary profit solely because charges are made for the admission to or use of that land if the net proceeds of the charges are applied, -

...
(b) solely for the purposes of the society, organisation, association ... that makes those charges, and no part of the charges is distributed as profit to any individual.

Parishes should be careful that any use allowed does not involve giving away or transferring the right of control of the property to the user but is a “bare licence” to use and is determinable on reasonable notice by the Church.

Where a church is registered for GST such payments will involve a return for output tax.

Summary

It is the Church’s contention that where property is used for religious worship and religious education on a Sunday, that property is fulfilling the principal purpose for the Church’s ownership or control of the property and the property is therefore non-rateable.

Where a property is not used on a Sunday for those purposes but is used during the week for a mix of religious education purposes and community activities, the property should be non-rateable so long as the majority use (by time) is for religious education purposes.

A charge or receipt of a donation for use of a church property by community groups does not change the rateable nature of church property so long as the proceeds are not used for private pecuniary profit.