

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



November 22, 1982

ALL-COUNTY INFORMATION NOTICE I-150-82

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: VAESSEN v. WOODS: TREATMENT OF INCOME TAX REFUNDS, STATE HEARINGS,
RETENTION OF RECORDS IN AFDC, RCA AND ECA

REFERENCE:

The purpose of this Notice is to bring you up-to-date on the Vaessen v. Woods litigation and to outline county responsibilities regarding state hearing appeals and file retention.

As you are aware, on August 9, 1982, the California Supreme Court granted plaintiffs' petition for hearing and at the same time ordered the Department to stop treating income tax refunds as income. This order was effective immediately and applied to state hearing decisions as well as county eligibility determinations. Therefore, all state hearing decisions adopted on or after August 9, must comply with the Court's order and consider tax refunds as property. This is so even if the action underlying the appeal was correct at the time it was taken.

Some counties were informed that hearings must be held in these cases and that rescission of the action was not allowed. This was based upon the belief that correction of affected cases could only occur by a hearing decision. It has since been determined that although a hearing request is required, you may rescind the action rather than complete the full hearing process. You can rescind only those actions which are related to the treatment of tax refunds and rescission is appropriate only when the claimant filed the appeal within 90 days of the disputed action. Additionally, you may explain to the claimant the conditional withdrawal procedure provided for in EAS 22-054.112.

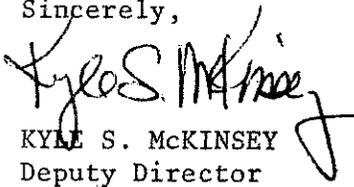
Plaintiffs initiated this lawsuit in 1979 and first obtained relief for a limited number of recipients in July of that year. Pursuant to preliminary injunctions, full classwide relief was provided for 1980 and 1981. If plaintiffs ultimately prevail and obtain the relief they seek, it will be necessary to provide retroactive benefits to additional families not previously covered in 1979. In the event that such relief were granted, it would be necessary

that counties have available the case records of individuals who received income tax refunds from 1979 forward. Therefore, you are hereby instructed not to destroy or allow to be destroyed, any open or closed case records for 1979 or later, in which the FBU received a tax refund which was treated as income for eligibility or grant determination purposes. Sufficient documentation should be held so that all necessary computations can be completed.

The Department will provide instructions concerning treatment of tax refunds for the upcoming year no later than January 1983. Until then, however, income tax refunds are to be treated as property.

We will keep you informed of further developments in this case. If you have questions concerning this matter, please contact the appropriate Program Management Consultant for AFDC at (916) 445-4458; Refugee Services at (916) 322-3141 or (415) 557-8588, as appropriate; Food Stamps at (916) 322-4401.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle S. McKinsey". The signature is written in a cursive style with a large, sweeping flourish at the end.

KYLE S. MCKINSEY
Deputy Director